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BARRIERS TO INDIAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON BARRIERS TO INDIAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING

FEBRUARY 23, 1988
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BARRIERS TO INDIAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING

TUESDAY, FEBRUARY 23, 1988

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:40 a.m., in room 485 Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, McCain, and Murkowski.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good morning and welcome to this oversight hearing on barriers to native American participation in Government procurement contracting.

The economic development and management of for-profit business enterprises is still a relatively new experience for Indians, Native Alaskans, and Hawaiians, and particularly for those who have maintained a rural lifestyle. While immigrants to this land chose to come in pursuit of economic opportunities and a better life for themselves and their children, those who were already here were not given any such choice. Their only option has been to try to participate in this capitalist economy and thereby gain greater self-sufficiency and independence.

However, due to cultural differences, geographic isolation, and the absence of experienced cadres of business managers, they face many barriers to successful participation in the world of business and industry. Today's hearing is intended to focus on ways to overcome those barriers that are directly related to doing business with the Government.

It is well known that the U.S. Government spends billions of dollars procuring goods and services from the private sector. The public policy of directing that purchasing power to accomplish social goals such as assisting disadvantaged members of society is also well established.

Unfortunately, as this committee has discovered in previous oversight hearings, this public policy goal has not been achieved with respect to the participation of businesses owned by native Americans.

On the other hand, it is very clear that anything we can do to increase the participation of native owned businesses in govern-

ment procurement contracting will have a very beneficial effect on the various native American communities.

Their present level of participation constitutes such an abysmally small percentage of the Government procurement dollar that any appreciable increase in that percentage means a tremendous increase in the economic benefits to the native American communities.

In addition to sharing common conditions of extreme economic deprivation, the various native American groups share a common trust relationship with the United States. It is this trust relationship which allows the Congress to legislate unique benefits and treatment for the native Americans.

The Supreme Court has upheld laws which provide special health, education, and other social benefits exclusively for native Americans. For our purpose we note that the courts have also upheld business and employment preferences on the premise that we are not dealing with the Indians, Hawaiians, and Alaskans as a racial group but as members of a political class.

The proposals we will be examining this morning are based on these economic, legal and social premises. Most importantly, however, we are simply looking for ways to help our Nation's first citizens in ways that are fair and effective.

[Prepared statement of Senator Inouye appears in appendix.]

The CHAIRMAN. On that note I would like to begin the hearing this morning by calling upon and welcoming Hawaii's first native Hawaiian Governor, Gov. John Waihee.

STATEMENT OF HON. JOHN D. WAIHEE III, GOVERNOR, STATE OF HAWAII

Governor WAIHEE. Thank you, Mr. Chairman.

I want to thank you, first of all, for your invitation to present my views on this legislative proposal. As you know, it isn't often that I have the opportunity to testify personally before Congress due to distance and routine activities. So it is with a great deal of pleasure that I have the opportunity to appear before your committee.

The proposal before you that I have the most interest in is the 5-percent incentive payment for prime contractors who give subcontracts to Indian or native Hawaiian businesses. This measure is auspicious because it comes at a critical juncture in the economic evolution of the native Hawaiian community.

As members of this committee, you have heard numerous negative statistics, social and economic, about native Hawaiians. Other testifiers today will provide even more evidence so I shall not belabor the point. It is sufficient to point out, I believe, that in a State that enjoys an employment rate of over 96 percent, Hawaiians have the highest unemployment rate, the largest percentage of so-called low-status jobs, and one of the smallest percentages of management jobs.

In an economy characterized by small businesses, only about 7 percent of all minority-owned businesses are owned by Hawaiians and only one-half of 1 percent are large enough to have paid employees. For those of you who may question the impact on the econ-

omy of the State as a whole, Hawaiians make up a full 18 percent of the population.

Juxtaposed on these discouraging facts are a few small, but significant signs of improvement. For example: on the island of Molokai, with a predominantly Hawaiian population of 6,000, and among the highest unemployment rates in the State, 19 people are enrolled in a 12-week entrepreneurial training course. Hawaiian organizations such as Alu Like and the Office of Hawaiian Affairs have self-identified economic development and its companion issue, education, as key ingredients for the self-sufficiency of the Hawaiian people. In the SBA 8(a) program there are three certified Hawaiian businesses. There were none 5 years ago.

What these encouraging signs indicate is that there are Hawaiians who are striving hard against the barriers of capital, culture and perception to provide for themselves and the future of their children. The questions before us are: First, what are we doing, both Federal and State government, to encourage and assist native Americans in achieving self-sufficiency and, second, why should we.

The "why" is simple. For the Federal Government, there is a clear and convincing trust responsibility to all native Americans as peoples. For both the State government and the Federal Government, there is a pragmatic reason: the social costs of unemployment and lack of economic self-sufficiency is extremely expensive, both in monetary terms, as well as in the loss of human potential.

As for the "what to do" part of the question, the proposal you are considering today takes an important step. An incentive to prime contractors to subcontract to Indian and native Hawaiian businesses will provide a creative means of short-circuiting a number of structural barriers; barriers such as a lack of sufficient financing to guarantee payroll, lack of experience on Government procurement contracts, lack of experience as businesses, and inability to secure bonding. These are all the types of reasons cited by Government procurement officials to justify the lack of native American subcontractors and contractors.

An incentive to subcontract, which would be both a matter of public policy as well as a purely business incentive, would short-circuit these structural barriers. If administered carefully and with proper support at the local level, this program has the potential of assisting native Americans in "graduating" to the level of prime contractor in the public and private sectors.

To this end, I want to assure this committee, Mr. Chairman, that the question of what to do applies to the State as well. You can provide the entree to an important source of capital, jobs, and experience. Federal procurement dollars for Hawaii amounted to $672 million in 1985. By doing so, you can help break down the structural barriers that dampen the will of a people.

As a State, Hawaii will support these efforts by coordinating and targeting our procurement assistance programs, small business assistance program, and loan programs through the Departments of Business and Economic Development and Hawaiian Home Lands. Whenever possible, we will combine these efforts with the Office of Hawaiian Affairs, Alu Like, the Hawaiian Business and Professional Association and other organizations to ensure appropriate business and technical assistance.

Mr. Chairman, members of the committee, I believe this is a unique opportunity for the State and Federal Governments to combine and leverage our resources for the common good. Let's work together to take advantage of it.

[Prepared statement of Governor Waihee appears in appendix.]

The CHAIRMAN. I thank you very much, Governor.

I am well aware, but I am not certain whether the committee is aware of the important role you played in the constitutional convention of the State of Hawaii in the creation of the Office of Hawiian Affairs. It is a unique office, one that one will not find anywhere else in the 50 States. Could you just tell us briefly what OHA is all about?

Governor WAIHEE. Mr. Chairman, let me begin by saying that you are far too modest with your own role in the establishment of the Office of Hawaiian Affairs. In 1978 there was a group of us elected to the State constitutional convention of Hawaiian ancestry who felt that the Hawaiian community deserved an opportunity to elect their own leadership and to provide guidance in the allocation of resources that had been targeted by the native Hawaiian community by the Federal Government. The resources in question were the revenues from lands that formerly belonged to the Hawaiian monarchy, and after the overthrow of that monarchy transferred to the U.S. Government and subsequently transferred back to the State.

By the Organic Act of the United States as well as the State Constitution, a certain percentage of these dollars were to be allocated for the use of native Hawaiians.

In the 1978 constitutional convention we formed a proposal to have an Office of Hawaiian Affairs which would be composed of elected representatives from the native Hawaiian community to have the responsibility for budgeting and appropriating the disposition of these revenues.

Mr. Chairman, I want to recall your own role in that because what in fact happened was that when some of us nervously set about establishing the Office of Hawaiian Affairs, we called Washington and sought your advice. It was basically with your guidance that the Office of Hawaiian Affairs was established to do this.

The CHAIRMAN. You are very kind. How would you rate its performance as of this moment?

Governor WAIHEE. Well, the Office actually became operational about 7 years ago, Mr. Chairman. It took 2 years after the 1978 constitutional convention to get started. As with any new organization, it had and has suffered through its growing pains. It took some time getting started, getting clear on its objectives, getting its relationship to other State agencies established. Coming from a people that had for years been denied any kind of franchise in direct participation in their own governance, it has some problems.

Overall though, Mr. Chairman, I think that the Office of Hawaiian Affairs has made a very significant impact in bringing forward to the State as a whole, and to the Nation, the key issues that affect the Hawaiian community. It has given the Hawaiian community a forum in which to debate their priorities.

It is still struggling to find its role in the leadership in that community, but I am very confident that it will do so in the future.

The CHAIRMAN. Thank you very much, Governor.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman, and thank you, Governor, for coming this long distance to be here with us. I would much preferred that we had had this hearing in a more convenient spot for you like Honolulu, but——

Governor WAIHEE. You are invited, Senator.

Senator MCCAIN. Thank you, Governor. I appreciate your kind words about Chairman Inouye and all his efforts on behalf of all native Americans.

I guess one of the issues I would like to discuss with you is this situation of what we can do to encourage native American businesses, both in the case of some areas of off-reservation, on-reservation, either way.

I thought it was kind of interesting when I discovered that the minority set-asides so to speak did not apply to native Americans or white Americans. That is my understanding. I still have yet to understand the rationale behind that.

How confident are you if we extended these programs, set-asides, special 8(a) programs, others, to Hawaiian Americans that we could bring them into the economic development that all of us would like to see take place in that community?

Governor WAIHEE. I am very confident that we will see a commitment from the Hawaiian community to take advantage of these programs. As the chairman brought out, in 1978 when we first addressed Hawaiian issues on a constitutional level at the State convention, in addition to the Office of Hawaiian Affairs there was a strong movement with the Hawaiian community to set out economic development as an objective in addition to just programs that could have been characterized as rehabilitation efforts.

So starting 10 years ago there has been a sense in the community that in addition to native Hawaiians attempting to take control of their own destiny politically, that there needed to be a matching effort to do so economically. The idea of economic self-sufficiency in the Hawaiian community has become very prominent.

So then we begin to see in indigenous Hawaiian communities an effort at the grassroots level to train themselves and to prepare to do that adequately. Now there is no doubt that there are many barriers to overcome. Sometimes the greatest barrier is one of perception of a people starting to do something new and having no track record, therefore not really being given the chance to do it.

I think the strongest point that this type of program would make is that it would give an incentive to the prime contractor to overcome that perception. I have no doubt in my mind that with the training the people are now beginning to receive, the educational levels that the young people are achieving, that they have in fact the ability to carry on economic activities. They need someone to give them a chance.

Senator MCCAIN. I certainly agree with everything you have said. I think, strangely enough, there are some parallels between the situation of Indian reservations in Arizona and perhaps some of the dilemmas that you face in the Hawaiian Islands, and that is that we have remote reservations in Arizona which are far away from transportation, rail, large corporations that they might sub-

contract from. It is my understanding from traveling to the Hawaiian Islands there are some islands that also have this basic problem.

Do you have any ideas as to how we address that? We can get them I think some set-aside money, we can get them perhaps some other incentives, but at the same time how do we provide that infrastructure which would be necessary for them to be able to prosper economically besides tourism?

Governor WAIHEE. I think that there are a number of things that can be done. First of all, there is a group of new entrepreneurs that are being developed that don't mind living on one island and having their businesses on another—in the case of Hawaii—that is not too much different from other businessmen who live in the suburbs and work in the cities. So there is that type of mentality being developed.

Second, the State of Hawaii in conjunction with the Federal Government has undertaken a number of transportation projects that are able to move people more effectively from place to place. One such example of that is the recent State subsidization of a ferry system between two islands. On one island we had the problem of a job shortage, of a labor shortage, and that is the island of Maui which is located across the way from the island of Molokai. By subsidizing the ferry, Mr. Chairman, we were able to provide jobs to people on one island and have them return to live on the other island for the rest of the time.

As a result of that effort, in November the unemployment rate on Molokai, which has a predominantly Hawaiian population, the unemployment rate was 14.5 percent. By December it was reduced to 6.2 percent, a substantial amount of reduction in unemployment.

What it takes is innovative thinking and creative types of programming. I think this program falls into that category.

Senator MCCAIN. Were they wearing those T-shirts that said "Here today and——

Governor WAIHEE. "Gone to Maui", yes.

Senator MCCAIN. Thank you, Governor. I certainly look forward to the opportunity of working with you and the chairman as we address what I think is a crucial issue of making sure that all of our citizens have an equal economic opportunity. I appreciate in particular your efforts in this direction.

Thank you.

The CHAIRMAN. Thank you, Governor.

Governor WAIHEE. Mr. Chairman, thank you very much.

The CHAIRMAN. Before I call upon the next panel, just so that we understand what we are dealing with, a review of some of the numbers available may be helpful.

The present unemployment picture among native American Indians is a horrendous one. The average throughout the United States is 47 percent unemployment, 47 percent. It goes as high as 95 percent on some of the reservations. There are a few reservations that have done well where the unemployment picture is as low as 5 percent.

In addition, the highest incidences of suicides among all age categories, youth, young adults, adults, and the elderly will be found among Indians in the United States. The highest incidence of alco-

holism in any age category will be found among native American Indians. I am certain you won't be surprised to know that in the health statistics the Indians would rate about the worst of all of any ethnic group in the United States, the worst in diabetes, the worst in cancer, the worst in respiratory diseases, and it goes on and on and on.

This committee is committed to finding solutions to bring about a significant change in these numbers. Some of the proposals we are discussing today come from the mind of Senator McCain, and I think all of us should be aware of that. We will be doing our best to urge the agencies of our Government to participate in this endeavor.

I think those who preceded us here on this land deserve some recognition.

With that, I would like to call on Mr. Conrad Edwards, the executive director of the Council for Tribal Employment Rights of Seattle. He will be accompanied by Mr. Daniel S. Press, Esq., of Washington, and Mr. Steve Stallings, executive director, United Indian Development Association of El Monte, CA.

Gentlemen, welcome.

STATEMENT OF CONRAD EDWARDS, EXECUTIVE DIRECTOR, COUNCIL FOR TRIBAL EMPLOYMENT RIGHTS, SEATTLE, WA, ACCOMPANIED BY DANIEL S. PRESS, ESQ., WASHINGTON, DC

Mr. EDWARDS. Thank you, Mr. Chairman, members of the committee.

On behalf of the Council for Tribal Employment Rights and the 107 tribes that now comprise our membership, I would like to express our appreciation for the opportunity to provide testimony before you on the important issues of Indian and native economic development and the role that the SBA 8(a) program can play in the success of that development.

Our purpose here today is to provide you with basically a grassroots perspective of the SBA 8(a) program and its effect on Indian economic development. We are also here as advocates for some minor changes in the 8(a) program which will enhance the successes of the program and assist Indian and native people to optimize its impact on their economic efforts.

First, I should provide the committee with a little bit of background. The Council for Tribal Employment Rights and the council employment rights offices that it represents over the past 10 years have been successful in utilizing existing Federal Indian law, civil rights law, and tribal laws to protect the employment right of Indians in the reservation communities to effect tribal enforcement of Indian preference and civil rights laws, and to develop new economic opportunities for Indians in the adjacent communities through sound or strong tribal compliance programs and good human relations.

Coupling the sovereign authority of the tribes with existing Federal laws and programs designed to provide economic opportunities to Indians, the TERO's have produced some dramatic impacts. You mentioned the unemployment statistics or the unemployment conditions in Indian country today. Through a sound TERO effort the

upper Scatchet Tribe of western Washington, it is a small tribe in western Washington, was able to lower its unemployment rate by 59 percent in a 6-month period.

Another significant example is the Blackfeet Tribe of Montana has negotiated as high as 95 percent Indian hire on an Indian Health Service hospital, a construction project that was going on in their reservation.

In total, the 107 TERO's last year were responsible for placing an estimated 18,000 Indian people in jobs at an evarage wage of $11 per hour over the past fiscal year.

Today we are involved in a struggle to create new opportunities in our communities by attracting economic resources to the reservations and the native villages.

Just as the Civil Rights Act, the Executive Order 11-246, the Indian Education and Self-Determination Act and the tribal employment rights ordinances positively impacted the deplorable economic conditions in Indian of which you spoke, the SBA 8(a) program can have a major impact on the success of tribal enterprises and individual entrepreneurial efforts.

Optimal levels, however, can only be achieved if certain changes are made in the law.

Today the panels that you will be hearing testimony from, we have assembled before you some exciting examples of the productivity and success that tribes can achieve through the 8(a) program. These examples have worked successfully to provide hundreds of their respective tribal members with the resources and opportunities to go from welfare recipients to skilled, productive employees.

They have also been successful in training Indian mid and upper management level personnel which in turn create new Indian entrepreneurs in the reservation community. They have also produced quality products for the Department of Defense. They have enabled the tribal membership to become participants in their own economic development and created an environment which is conducive to the development and growth of an Indian private sector.

By making some minor changes in the 8(a) laws, Congress can ensure the models of success that you will hearing from today can be replicated throughout Indian country.

We, alongside the United Indian Development Association and some of the other witnesses that you will be hearing from today would like to work with the Congress in obtaining this following list of modifications in the 8(a) package.

No. 1, an exemption for Indian development tribes from the requirement to compete on procurements over a specific amount.

No. 2, an increase in the number of years a business may participate in the program.

No. 3, a modification to permit joint ventures that include non-8(a) enterprises to receive 8(a) contracts.

No. 4, an elimination of the prohibition on receiving a contract that is more than 150 percent larger than a previous contract.

The tribal enterprises that you will be hearing from today would like to work toward an exemption for tribal enterprises from the once-in-a-lifetime rule and the modification to the "disadvantaged individual" definition for the manager of a tribal enterprise.

A provision creating an Indian Desk in the SBA national and regional levels to govern the unique aspects of tribal enterprises, and finally, a provision to give prime contractors 5 percent of the contract price for subcontracting with tribal enterprises as an incentive to subcontract.

At this point I would like to defer to the remaining panel members to provide the committee and you, Mr. Chairman, with some specific examples of the rationale behind the request for these changes. At this point I would like to conclude my introduction and turn the mike over to Dan Press, our general counsel, and our other distinguished panel member, but in conclusion would just like to express our appreciation to your deep commitment, Mr. Chairman, to the economic development of Indian people throughout the country and the fine example that you are promoting.

I guess at the end of today's testimony you will begin to turn it over to the Congress to make the determination of whether or not the 8(a) program continues to be something, a program of continued neglect or one of optimal effect.

At this point I would like to turn it over to Dan Press, our general counsel.

[Prepared statement of Mr. Edwards appears in appendix.]

The CHAIRMAN. Thank you, Mr. Edwards.

Mr. Press.

STATEMENT OF DAN PRESS, ESQ., GENERAL COUNSEL, WASHINGTON, DC

Mr. PRESS. Thank you, Mr. Chairman.

Like Mr. Edwards, I would like to begin just by thanking you, Mr. Chairman, and you, Senator McCain, for the deep commitment you have shown to Indian economic development. If you review the proposals for furthering Indian economic development that are moving through this committee right now, they are really unprecedented in the history of Indian development. I think the Indian community is appreciative and will support you and work with you to see those proposals go through, because if they do go through I think they can make a major change in the deplorable situations you discussed earlier.

The key message at this hearing is that we have some success stories out there. There are tribal 8(a) companies that have been extraordinarily successful in promoting Indian employment and promoting economic development at no cost to the U.S. Government.

The second message is those stories can be replicated by making some minor changes in the 8(a) program.

We have tried to structure the witness presentation so that each one will talk both about their successes and one of the changes that are being requested indepth rather than trying to cover all of the changes superficially.

I would like to talk just very briefly about the need for an Indian Desk or some other form of institutionalized capability in the area of Indian affairs in SBA.

In 1983 Senator Domenici proposed and the Congress enacted a provision requiring the Department of Defense to comply with the

Buy Indian Act. The Defense Department's reaction was, we already have so many special set-aside programs, we are not going to create a Buy Indian Program. Instead, we will take that language to say we have to make some special efforts on behalf of Indians in the 8(a) program.

A coalition of Indian organizations and tribes got together, met with DOD, and said that's a worthless offer because there are almost no Indians in the 8(a) program. DOD said, tell you what we'll do. We carry a lot of weight with the SBA program. We will use that weight to make the 8(a) program more responsive to Indians.

As a result, a memorandum of understanding was entered into between DOD and SBA on Indians in which SBA committed to increase the number of Indian 8(a) companies by 75 a year, DOD committed to make some major efforts to reach out to Indian 8(a) companies.

The Council for Tribal Employment Rights and other organizations then accompanied DOD and SBA on a series of workshops around the country explaining to people the new memorandum of understanding, the opportunities it presented.

We were skeptical because the 8(a) program hadn't worked before, but we thought we would give it a try. Unfortunately our skepticism was validated. In the 5 years since the memorandum of understanding has been enacted, we haven't had 75 new Indian companies a year, we have had a total of 75 new Indian companies in the entire 5-year period.

I still get calls 5 years later from Indian businesses and tribal representatives who attended that conference and said, remember all those promises you made. I go to the SBA office and nobody remembers them and nobody wants to give me the time of day.

The failure to actually institutionalize through statutory changes the Indian commitment in SBA has shown that anything short of the recommendations being proposed today will not work. Tribes are unique. They are the only Government entity that has been given a special responsibility by the Congress to promote economic development.

If you look, for example, at section 17 of the Indian Reorganization Act, it told tribes to set up business corporations. Congress was saying to the tribes, you need economic development. Yet when the tribes went to SBA and said, we want to have our federally chartered corporations certified as an 8(a) corporation, SBA said no, we don't understand federally chartered corporations, you have to charter under State law thereby stripping the tribes of one of the important powers and special statuses given them by the Congress.

I don't mean to say that there are bad people at SBA because I think there are a lot of people who have tried hard. Again, the problem is, it is not institutionalized. There is a need for people in 8(a) who understand Indian issues who are in the line of authority to review Indian applications and can bring that knowledge to bear.

SBA has started the equivalent of an Indian Desk—Indian Desk has a bad taste in people's mouths because they failed, but created an office in their Denver Regional Office that has people with knowledge in 8(a) issue, knowledge about Indians, has gone out and

reached out to the Indian community. It has been extraordinarily successful. It has only been in place for a short period of time, but the initial reaction is that it works.

So we are asking the Congress today to push through a number of statutory changes in the 8(a) program that institutionalizes commitment and has capability to deal with Indians.

We think one of the important ones of that is to have people in the SBA office who really understand these issues.

Thank you, Mr. Chairman. Again, we appreciate your commitment. I would now like to ask Mr. Stallings to take over.

The CHAIRMAN. Thank you, Mr. Press.

Mr. Stallings.

STATEMENT OF STEVE STALLINGS, EXECUTIVE DIRECTOR, UNITED INDIAN DEVELOPMENT ASSOCIATION, EL MONTE, CA

Mr. STALLINGS. Thank you, Mr. Chairman.

My name, again, is Steve Stallings. I am the president of the United Indian Development Association. We are a national management services and technical assistance firm providing business development and advocacy services for tribal business and economic development.

I would like to digress a little and set the stage for what the magnitude of, not necessarily the problem is but the opportunity.

The Federal procurement market is estimated to be about $160 billion annually, that is the actual amount of contracts that would go to contractors outside of the Government. Minority participation over recent years has averaged about 3.1 percent, and under the new Public Law 99-661 this must reach 5 percent.

The private industry is right now debating whether that 5-percent goal will be on each Federal contract or whether a prime contractor, someone like Rockwell International, might reach a 5-percent goal inside their company as a whole.

The methods used for minority participation in subcontracting is broken down percentagewise like this: of about a $5 billion amount that goes to minority owned companies annually, 21 percent went through subcontracting—previously we had Public Law 95-507 that had a best effort clause in it, do the best job you can to have minorities participate—36 percent went through direct minority preference contracting where a minority company was given a preference—the closest examples for Indians would be the Buy Indian Act or Indian preference in Housing and Urban Development—and 43 percent through the Small Business Administration's 8(a) program.

So you can see the 8(a) program is a significant opportunity; 43 percent of all the procurement awarded to minorities goes through the 8(a) program.

Indians participating in the 8(a) program, and you can check this from the Select Committee on Indian Affairs April 29 hearing when SBA appeared before you, before this subcommittee, in 1984 there were about $235 million in contracts through the 8(a) program to Indians; in 1985, $187 million; in 1986, $262 million; 1987 is an all time low for the 8(a) program and Indian participation. It is down to $154 million.

To reach the level of just other minorities participating in Federal procurement of now a $5 billion total, Indians and natives are going to have to reach $750 million annually. This is about a 333-percent increase. So Indians and natives have a long way to go just to get up to the level of participation in Federal procurement that other minorities are currently participating.

To reach these new levels it will take more than the current preferences, whether it is subcontracting through Public Law 99-661, through direct preference contracting, or through the 8(a) program. Given some specific procurement opportunity like the 5-percent incentive we are proposing, there is no way that these new levels will be achieved.

We believe there is a great deal of support for the 5-percent incentive that is included in all of our recommendations. I have spent time talking with Rockwell International, Northrup, the National Federation of Minority Business Associations, and I think that we can garner the kind of support that will demonstrate to Congress that this is acceptable to people in the minority business community and in private industry.

As of the end of last fiscal year there were about 213 8(a) certified business that were either Indian or tribally owned. Only a few of these were tribally owned. Most of the 213 have not received one Federal contract in the history of their participation in the program.

Also, if you remove the few large contracts, some fairly large 8(a) contractors are Indian, you will see that the actual amount spread among the other 200 or so Indian 8(a) companies is really a minuscule amount.

Again, the 8(a) program alone has just not been enough. I have supplied written testimony and for the sake of brevity will not cover all of it, but will just summarize some of my major points.

Of special concern to tribes operating tribally owned businesses as distributed from those just individually Indian owned is the SBA 8(a) standard operating procedure [SOP] or interpretation of socially and economically disadvantages. This is what leads us to the rule of "once in a lifetime eligibility" that was brought up by Conrad Edwards of CTER and the requirement that the manager of the company be an Indian.

This limits the opportunity for tribes to joint venture with prime contractors in major industry or having a non-Indian manager as a temporary competitive strategy in the case where an Indian is developing into the chief executive officer of a tribally owned business.

Our specific recommendations on how to eliminate barriers to Native American participation in Government contracting are listed again in my written testimony. I would just like to briefly cover a few of those.

The SBA should be required to use the BIA as the only source of Indian certification. Currently a self-identification process is used at SBA, and we think that this opens the opportunity for fronts to participate in the program as Indians. If the current buy Indian rule were used and eligibility acquired from the Bureau of Indian Affairs we could eliminate this practice.

In terms of maximizing the participation of tribal enterprises in the SBA 8(a) program, I think a reasonable extended participation in the program might be something like 2 times 7 years which is the maximum fixed program participation term FPPT of programs currently in the company. That would be 10 years plus a 4-year extension that tribal enterprises could participate in a program for a total of 14 years.

Through the use of joint ventures in same or similar lines of business and to eliminate improprieties would be the requirement of a divestiture agreement for a prime contractor who worked with an Indian company. In this way you could allow these joint ventures to happen and the prime contractor to work themselves out over time.

Tribes should only be required to maintain management control rather than management responsibility. This would allow for adequate training periods of tribal members who will become future chief executive officers [CEO's] and chief operating officers [COO's] of these 8(a) concerns.

In relation to the Small Business Administration-Department of Defense memorandum of understanding, some definite strengthening needs to be done here. We believe that the current agreement which ends September 30 needs to be extended for at least another 3 years. Adding the 5-percent incentive as part of the MOU would actually implement a procurement process that targets contracts to Indians by use of a payment incentive.

If you look at this example of providing a payment incentive to a prime contractor of 5-percent; let's say you had $1 million in the budget to accomplish this, it would result in $100 million in actual contracts going to Indians. If you had $2 million, it would be $200 million. So the cost of the 5-percent incentive, given the dollar level of procurement that would be targeted to Indians seems a reasonable measure in terms of the impacts you are trying to achieve to improve employment and target economic assistance to reservation areas.

Other areas are given targeted preferences and cash payments or financial help with the Department of Defense's Procurement Technical Assistance Program. In fact, Senator McCain had $500,000 through his and other people's efforts added to the Defense budget to fund Procurement Technical Assistance Centers for reservations. This is in the form of an incentive, making a payment to direct or target procurement to certain geographical areas. Clearly, Indian reservations are distressed just like other urban areas that are distressed economically.

The 8(a) application process for Indians needs to be streamlined. The idea of establishing an Indian Desk will help this. We believe assuming eligibility by virtue of the BIA certification of an Indian or a tribal enterprise would help.

Again, SBA has to assume, given all these preferences and the memorandum of understanding, that there is contract support existing for Indians given they can have procurement targeted to them.

Finally, procurement is a cumbersome process, getting in and participating in the 8(a) program and getting started in business, all require some level of technical assistance. Our final recommen-

dation is the establishment of a National Center for Indian Business and Economic Development to provide that technical assistance and advocacy nationally to Indians and Indian tribes.

You've got to work both sides of the equation, the Federal procurement side, but also enhancing Indian capability to perform on these contracts. I think the commitment on the part of Indians is to produce quality goods and service given the proper kind of support to do that.

That concludes my testimony. Thank you.

[Prepared statement of Mr. Stallings appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Stallings.

I have just two questions, and I will leave the bulk of the questioning to the major author of the measure before us, Senator McCain.

Is the determination or certification of Indian eligibility a problem of significance?

Mr. STALLINGS. This is directed to me I guess.

The CHAIRMAN. Any one of you.

Mr. STALLINGS. SBA provided you a list of Indian 8(a) companies at your April 29, 1987 hearing. In that list are companies that are not American Indian. Some of them are Asian Indian.

The CHAIRMAN. Asian Indian? You mean New Delhi-type?

Mr. STALLINGS. Yes; exactly. Many of the addresses for the companies are nonexistent. Now they may have changed addresses. We have requested previous lists from SBA. I think this is part of the problem. Some source needs to be kept on these statistics and this data and lists and relevant information. I don't know if that is necessarily done inside the Government as well as it maybe done by the national center we are recommending.

There are fewer Indians in the program now than before the SBA/DOD memorandum of understanding through attrition and people who have graduated from the program.

So it is a problem from the standpoint that there are non-Indians or people who are claiming to be Indian who are questionably participating in the program, yes.

The CHAIRMAN. Would the involvement of BIA cure this?

Mr. STALLINGS. I don't know if it would necessarily cure that because if someone has set out to be criminal, you know, they are going to do that. But is clearly would enhance the program by requiring this designation by BIA. As you know, for participation in other programs, whether it is Indian Health Service or BIA scholarship programs, some proof has to be provided of that eligibility.

The CHAIRMAN. It has been said that success begets success, and the Government often times would like to deal with companies that have had successes. As such, after a while you will find a rather disproportionate distribution of grants and contracts to few places.

I notice from reports that all Indian reservations do not receive their proportionate share of SBA-type activities. Should this activity be also determined by regions, or should we look upon Indian country as 50 States?

Mr. STALLINGS. For us, I think that given a market orientation to business development, setting any kind of a regional allocation of Federal procurement dollars is a mistake. You want to have busi-

ness synergy in these contracts. There ought to be some link between the prime contractor and the reservation, whether it be geographics or market opportunity. We are currently working with White Mountain Apache and McDonnell Douglas who produces the Apache helicopter, and they are going to be moving a subassembly operation to White Mountain. There is a natural business strategy here. The helicopter is called Apache. They've got this 5-percent requirement from Public Law 99-661. So it just makes marketing sense. The marketing people at McDonnell Douglas can run with that kind of thing. So I think there has to be a business synergy and mutual benefit.

The opportunity exists, given the proper incentives put in place, for Indians and people in private industry to come together and for it to be a win/win situation. I don't think it takes an allocation of these procurement dollars to regions or to tribes. I think that would be a mistake.

The CHAIRMAN. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

I thank the witnesses for their very important recommendations. I, frankly, am very supportive of all of them, and I would suggest that most of them shouldn't be too difficult for us to implement.

I do not have to tell you of the influence of our chairman not only on this committee but also on the Appropriations Committee, as well as his standing in the Senate, and perhaps we could use his assistance maybe if we bring up this 5-percent incentive payment again——

The CHAIRMAN. Will the Senator yield?

Senator MCCAIN. Yes; I will be glad to yield, Mr. Chairman.

The CHAIRMAN. I am pleased to announce that in January of next year, if all goes well, I will be the chairman of the Defense Appropriations Subcommittee.

Senator MCCAIN. I must say, that greatly enhances the possibility of success. [Laughter.]

I couldn't agree more with the establishment of an Indian Desk in SBA, perhaps not throughout the country but certainly in those parts of the country where there is significant Indian population and desire for participation in SBA. I would think that there is every likelihood we can move forward on many of these recommendations, or at least attempt to.

Mr. Stallings, I would appreciate it if you could talk a little bit more about the American Indian Center for Business Development. You know, we are always reluctant to set up another bureaucracy. At the same time, I understand the need for something like this, and I would be supportive of it. But I think it would be well if this committee could receive either now or for the record some specifics, like an idea of how much you think it would cost, where it would be located, what kind of staffing would be required in very general terms so that we are not asking anyone to just set up another open-ended funding of a bureaucracy.

Perhaps you would like to make some comments now and later on maybe submit some more specific details for the record.

Mr. STALLINGS. Definitely.

[Material to be supplied appears in appendix.]

Mr. STALLINGS. I was especially struck by the oversight hearings that preceded all of the economic development legislation of this committee from the standpoint of the lack of economic statistics for Indians, and in talking even to the staff on the subcommittee about their inability to really put some hands on some numbers and begin to deal with these needs outside of the bureaucracy.

I guess maybe in raw data form, somewhere in a dungeon, all of this staff exists. But for people to put their hands on it——

Senator MCCAIN. Perhaps they are over with all those bones at the Smithsonian.

Mr. STALLINGS. Right, exactly. So I think in our original testimony back on April 29 we broached this idea of a national center. I think that the center of course would have to be centrally located to provide assistance and support to Indians and Indian tribes in those areas where we have significant populations. I think given the State that you are from and other places that you are aware of, that would be an easily solved problem.

I think the center could initiate research in the field of business and economic development. We have a lot of successes, but they are not documented and researched so that they can be proliferated among other Indian communities. It could compile economic data so that we could begin to make these informed decisions about where to direct procurement, how to direct it. We could have the kind of data to make informed policy decisions.

It can serve as an information resource to tribal governments, assess the training needs of Indians in the field of business and economic development. Because we don't have as many managers as we need for these opportunities as they begin to come on line. We are going to have to put and move Indians into those positions, and that will take training.

It could develop evaluation data on some of these measures; how are things like procurement impacting communities, what is the real increase in the level of employment in these communities in the long term.

In my written recommendation I have other examples. I think it takes a funding commitment for at least 5 years. I think we are talking a minimum of $1 million a year over those 5 years. I think the organization is clearly delineated out. You need this procurement effort taken care of, you need management services in finance, a marketing division. I think you have to be forward thinking. You might have some efforts in the area of youth, youth entrepreneurship, and the TERO and other organizations are already working in those areas, but more needs to be done, the training area.

I think a model institution is easily delineated and put together given the proper financial support to make it work.

Senator MCCAIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. As Senator McCain indicated, your recommendations will be very seriously considered and very likely adopted in total. Thank you.

Mr. STALLINGS. Thank you.

Mr. EDWARDS. Thank you.

The CHAIRMAN. Before calling upon the third panel I am pleased to announce that we have with us monitoring these hearings two very important officials of the Small Business Administration. The Administration considers this hearing to be an important one. We have the Director of the Small Business Administration Office of Program Eligibility, Mr. Francisco Marrero, and the Assistant Administrator for Congressional and Legislative Affairs, Mr. Cliff Downen. We also have with us Mr. Robert Johnson representing the Small Business Committee of the U.S. Senate. He is the minority counsel, and he is personally here to represent Senator Lowell Weicker who is a ranking member.

Now I wish to call upon the chairman of the Devils Lake Sioux Tribe of North Dakota, Hon. Carl McKay, and the president of Laguna Industries of New Mexico, Mr. Ronald J. Solimon.

Chairman McKay, welcome, sir.

STATEMENT OF CARL McKAY, CHAIRMAN, DEVILS LAKE SIOUX TRIBE, FORT TOTTEN, ND; ACCOMPANIED BY JERRY CAVANAUGH, PRESIDENT, DAKOTA TRIBAL INDUSTRIES

Mr. MCKAY. Thank you.

I would like to point out that I have along with me sitting in the back of the room Mr. Jerry Cavanaugh who is the president of Dakota Tribal Industries, another company totally owned by the tribe.

The CHAIRMAN. Would you like to have him sit up here?

Mr. MCKAY. Yes; that might be helpful. Thank you, Mr. Chairman.

I would first like to say that I thank you for the opportunity to be here and to provide you with some hopefully helpful information in trying to encourage and have economic development, true economic development on Indian reservations.

The Devils Lake Sioux Tribe have been involved with the Brunswick Corp., since 1973. The Brunswick Corp., they will be testifying, and I am sure they have their own perspectives on economic development on Indian reservations, and you will be hearing from them a little bit later on this morning.

The Devils Lake Sioux Manufacturing Corp., recently graduated from the 8(a) program, and they graduated in October 1986. We were fortunate in that the SBA and the Department of the Army did give us, or we did win and negotiate some multiyear contracts, which we are still operating on.

Within the past 9 months or so we have not been able to win any contracts. We no longer enjoy the preferred status of an 8(a) corporation. We are and have been in the process of trying to get into other lines of business.

To that end, we felt that it was necessary that the tribe begin to assume more control, or to assume control of the company. Devils Lake Sioux, Manufacturing Corp., is owned 51 percent by the tribe and 49 percent by Brunswick Corp. That, of course, is something that is not available to most Indian tribes today.

Brunswick Corp., has been able to provide us with a great deal of marketing strategy, the ability to get into the Pentagon, talking to the people that need to be talked with. To that end, Brunswick has

enjoyed a great deal of financial profits, and I am sure they will speak to you about that later on this morning.

The 5-percent rule, as I see it, would be helpful, but when you look at a company that has actually been in existence, the 5 percent may not be enough. That may be a question that you would want to ask Brunswick Corp. We have the numbers available that we could provide to you if you wish which would show that the 5-percent incentive just may not be enough for private industry to become involved with Indian-owned businesses.

At this point in time Dakota Tribal Industries which was organized about 1 year ago is seeking 8(a) status, and we have been able to get the support of the district office and of the regional office in Denver, and that application I understand should now be someplace here in central office.

I didn't know that there was a problem with getting another 8(a) company certified. In fact, all of our discussions with the district office and the regional office have not indicated otherwise to us, and we may have a problem. I was not aware of that. It is our understanding, we have not had any problems, and if that is going to present a problem, I suspect that we will be asking for some assistance somewhere along the road. But if that is a problem, we would certainly like to have it changed where an Indian tribe may have more than one 8(a) business concern.

The CHAIRMAN. I will instruct the staff to follow on this and monitor the progress being made.

Mr. MCKAY. We have sent a copy of the application to Senator Burdick and also requested his assistance on this.

There is one other question that you had asked earlier in regard to the self-certification process utilized by Small Business Administration that does present some problems. As an example, one of Dakota Tribal Industries' competitors, though they were affiliated and later found to be affiliated with a large business located in London, Bridport Gundry (ph. sp.), the self-certification process allowed a company like Brownell to self-certify as a small business. They subsequently won a contract as a small business. Though Dakota Tribal Industries protested the Army, or excuse me, the Small Business Administration found that Brownell's protest was not timely and that it was not filed within the required 5 days.

So Dakota Tribal Industries which is truly a small business, small Indian-owned business, was beaten by a company which was later found to be affiliated with a large business. The self-certification process does present problems for Devils Lake Sioux Manufacturing Corp. and Dakota Tribal Industries.

I agree that there should be some better way to determine certification of a business as to its size.

A lengthened participation term would be most helpful I think for any company getting into defense contracts or procurement. We have seen that having been in the program for approximately 13 years it has been a benefit to us.

There is one other area that this committee I think has touched on before. It's in regard to the Federal Prison Industries, UNICORE. Right now Devils Lake Sioux Manufacturing Corp., manufactures the Kevlar helmets. One of our prime competitors is the UNICORE, the Federal Prison Industries located in Texas. We

have been able to maintain a low price on that helmet, and in that way have been able to retain that business. Without having been able to do that, we believe UNICORE would have taken the bulk of the business and would have eliminated roughly half of our product line. So we would seek some assistance on that.

I don't have any other comments at this point, but I would be happy to try to answer any questions you might have.

[Prepared statement of Mr. McKay appears in appendix.]

The CHAIRMAN. Thank you very much.

Mr. Solimon.

STATEMENT OF RONALD J. SOLIMON, PRESIDENT, LAGUNA INDUSTRIES, INC., LAGUNA, NM

Mr. SOLIMON. Mr. Chairman, thank you for the opportunity to be here this morning. I especially thank you and Senator McCain for creating a forum in which we can air our views and hopefully present to you a very close perspective on what Laguna Industries, Inc., experienced in its efforts to organize and do business as an 8(a) corporation.

I am a member of the Pueblo Laguna. It is a federally recognized Indian tribe, which is organized pursuant to the Indian Reorganization Act of 1934. That (statute) really sets the legal framework within which a corporation of our type could be established.

I am president and general manager of Laguna Industries, which is chartered under the laws of the State of New Mexico. We are certified as an 8(a) company under the Small Business Act.

One of the main purposes for which I am here is to preserve and protect what the Pueblo of Laguna established. I am here to protect their investment, which includes about 2.5 million dollars' worth of tribal dollars that went into our project before we even obtained our first contract. Those dollars were spent in order to repair our existing manufacturing facility, to market the skills and capabilities of our Laguna people, and to obtain the necessary management support, training, and technical assistance once we had a contract on the horizon. As it turned out, the money was well spent.

Another purpose for my presence here today is to identify to you, in no uncertain terms, the unique Federal trust relationship that Indian tribes have with the Federal Government. This trust relationship is often clouded over when we are put in the category of minority businesses or minority enterprises. It is something that we cannot allow to happen or we cannot sit by and let occur.

I want to make sure that any potential roadblocks or any kind of stumbling blocks that are put in our way, in the form of regulatory schemes or other changes, are dealt with quickly. I appreciate the fact that we are having an opportunity to do that here today.

The problem that Indian businesses face is trying to get up and running and keep running is that we often live in a very dynamic environment. Something such as the memorandum of understanding—between DOD and SBA—which has a life that has been renewed from time to time, creates a very tenuous environment for newly created Indian-owned businesses to get up and running. It is difficult for them to determine whether or not they would still

have the same vehicle that Laguna Industries had—in 1983—in order to enter into defense contracting.

With the imminent cessation of our uranium mining operations, in 1980 we began to look around for a Fortune 500 company that might truly believe in the trickle-down theory that was being espoused about that time, and we found a potential partner at one of the national Indian conventions in Wichita, KS. It turned out to be that Raytheon Co., and more specifically, Raytheon Service Co., which for several reasons had a corporate desire to assist in the establishment of Indian-owned businesses. It wasn't that they immediately had that desire, it was something that we had to foster. We had to get acquainted with one another. We had to identify facilities, the types of manpower that we had, and we had to identify resources available from the Administration for Native Americans, and the Bureau of Indian Affairs, for basic startup costs for purposes of rehabilitating our existing facilties and to obtain technical assistance, management support, and training for our effort.

With the sponsorship that we ultimately realized as a result of our discussions with Raytheon Service Co., we were able to become certified as an 8(a) corporation and to obtain a significant contract with the Army. Now that sounds like a very simple task and that it didn't take a lot of time. In fact, it took us about 5 years to really establish the legal framework and relationships with which we could actually become a defense contractor.

For example, we had to ask one of our Senators, Pete Domenici, to sponsor Buy Indian Act language that would ultimately be attached to the 1982 Defense Appropriations Act. Again, that is an example of how tenuous and dynamic a business environment with which Indian tribes and organizations have to contend.

I understand that the buy-Indian language has been renewed from year to year. I think, Senator Inouye, that during the April hearings you asked whether or not there were a better way to do that, and I believe that response you received from Ms. Susan Williams, attorney at law, was that it should be in the Defense authorization bill. Indeed, I think that's the way it should have started out. It certainly would have made us more comfortable, and I think the SBA progam would have seen a lot more successes than it has to date.

The 8(a) certification process that we encountered was very difficult in that the people we initially talked to in the district office in Albuquerque and in the regional office in Dallas were really unaware of the unique Federal trust relationship. So, for us, it was largely and educational type of effort wherein we attempted to acquaint these people with the case law and statutory environment in which Indian tribes operated. Still, with that education, when it came right down to it, it was very difficult for them to make an educated and informed decision.

As a result, Laguna Industries, which at that time was organized as a tribal enterprise and chartered by our tribal government, was unrecognizable to the SBA as a legal entity. We had to evolve very quickly into a State-chartered corporation because that's what the district and regional offices understood, and because of timeframes we were faced with. They understood State corporations; they didn't understand tribal enterprises. They didn't know what the

Indian Reorganization Act was. They didn't understand what section 17 of the Indian Reorganization Act would allow us to do.

As a result, we were pressed into action. We obtained our State charter on July 26, 1984, and that, in and of itself, has put us in a potentially taxable status that we really didn't foresee at that time. The taxability of income generated on the reservation because we were a State-chartered corporation all of a sudden became an issue, and we've since had to fight that battle. We sought a private letter ruling and in fact received a somewhat favorable opinion to date. We've had to spend money to get our accountants and lawyers mobilized. Those are the types of fees you really don't need when you are a startup business.

Our business today consists of a primary contract with the Communications Electronics Command, Multiservice Communications System Program that heads up the Tri-Tactical communications equipment project or program at Fort Monmouth, NJ.

Initially, in August 1985, CECOM awarded us an 8(a) set-aside contract for approximately $10.4 million. That seems like it is very sizable, and in fact, it is, compared to the size of a contract we were anticipating. We are most appreciative of their confidence in us. Since that time with options contained in the basic contract and the addition of the logistics effort we are now at about $54 million in contracts and we are a company that is just about 4 years old.

That's an example of how things can work. These are not individual contracts that have been added on, they are all part of one contract effort. The procurement agency and the particular program management people saw that we could actually perform the job.

There are two sides of our manufacturing operations—an electrical cable fabrication side, and a mechanical fabrication side which includes a sheet metal shop, welding shop, and painting and plating process. The first task was to prove that we could do the job, and the rewards then followed.

What we are looking at now is reaching out in different directions because what normally would have been our 5-year plan has actually been achieved inside a much shorter timeframe. So things like joint ventures are on the horizon. I would like to have the opportunity to examine such opportunities.

I also see the need for continued assistance out there in the Indian community. This assistance needs to be provided by people that really are knowledgeable about how Indian tribes are organized, and, therefore how Indian businesses might be set up. Such assistance would enhance our capability to set up other tribal organizations or operations that could do business under different standard industrial codes. Expert management support and technical assistance needs to be available not only to Laguna but to other Indian tribes, as well as the Alaskan Native and Hawaiians, that are choosing to do the same things. I think all native populations must have the opportunity.

When I have traveled to—I have had the pleasure of going over to Hawaii. One of the things that I noticed was that there were not a whole lot of native type of businesses in existence. I think that opportunity ought to be made available to them also.

Overall, what I have to say today is that in another 5 years I don't want to be here, Mr. Chairman, still fighting for a static environment within which Indian-owned businesses can be fostered and perpetuated. I would like to see a statutory framework that is at least somewhat solid in the regulatory scheme, that is, that there be changes that are reasonable, but that we not see great big peaks and valleys in the way that the Federal Government treats Indian tribes and organizations as they move to set up businesses.

There are some definite improvements I think that can be made through the changes that we are looking at today. I think there are some bureaucratic changes that can be made within SBA that would enhance Indian business in the defense contracts sector. The SBA needs to really utilize the information that we pass onto them in the form of their PASS information data system. That is one of the ways in which minority firms, including Indian-owned firms, identify themselves and their capabilities to the SBA. This information includes our primary and secondary standard industrial codes as well as other pertinent information on our company.

That system, Mr. Chairman, I really found to be ineffective. When we started approaching the Department of the Navy, for instance, I asked them if they had access to that data base, and each one of the procurement directorates—SPAWARS, NAVSEA, and NAVAIR did not have any information on our company at all. My assumption was that data base that we provided information for was pretty much Federal Governmentwide. That was a misconception on my part. The feedback that they gave to me was that:

> No, we don't have information on your company here. The only way that we will know that you are an 8(a) company that is capable of manufacturing a product for the Department of the Navy is if you come and identify yourselves to us.

What was given to me was a list of, I don't know, maybe 25 or 30 different procurement directorates that we would have to go and personally talk to.

For a small business it would be very difficult to dedicate a large marketing budget for the type of effort. It is almost impossible. It is a sacrifice, I hope you realize, for someone like myself to be here away from the business for a good 3 days. I'll have to rely on some other local resource people to do followup—that's essentially how I'll have to carry out the followup tasks for the balance of this week with regard to this piece of legislation.

So, the marketing effort could be enhanced considerably by effective use of that PASS data information system or some other marketing vehicle that somebody might come up with. I have a few ideas in that area, but I think that that's probably the subject of another discussion.

Overall, I think that there are a couple of areas that impact me in some ways very directly. One is the so-called once in a lifetime rule. In setting up a tribally owned corporation such as Laguna Industries, people have to be selected to take the lead role. As much a character builder as it has been for me over the last 3 years, and really over the last I guess a total of 5 years in helping to establish our tribal eligibility for defense contract work, there was an unknown sacrifice that had to be made. I was unaware that I would have to use up my eligibility in the 8(a) program simply by being

asked to take on the lead role in this economic development project, under the current statutory and regulatory framework, the ability to perhaps establish another 8(a) business for the tribe if they chose to ask me.

One of the examples that is coming up is the reclamation project of our once world's largest open pit uranium mine—the Jackpile Uranium Mine in New Mexico. That's an immediate example of another economic development for which someone like myself from contributing further to the community.

I see that as a real detriment to the perpetuation of Indian-owned businesses. If someone is going to look down the road and see that they are going to exhaust their eligibility by presenting themselves to the SBA on behalf of a tribal economic development effort vis-a-vis, a statement of personal history, a financial statement and reliance on our educational and professional backgrounds for purposes of buttressing the tribe's application—in my case I have a bachelor's degree in business administration and a law degree—chances are that a person would want to preserve his or her eligibility. I have used up my eligibility and wouldn't have the opportunity to create another privately held businesses. For instance, if I were to establish a business there on the reservation that would qualify for 8(a) types of set-asides, I wouldn't have that opportunity. More so, the tribe does not have the opportunity to set up other 8(a) businesses under the current draft language.

Mr. Chairman, I believe I have covered all the ground that I need to. Of course, I would like to make myself available to your staff members for any specific questions. I particularly want to thank Senator McCain for sponsoring that $500,000 set-aside for the technical assistance that is to be provided to Indian-owned businesses with the desire to become defense contractors. We could have used that at one time. We spent a considerable amount of time and money just trying to set up the legal framework within which to do business. So I think that was very thoughtful, and I do sincerely appreciate that supportive gesture. More so, I think it will assist other tribes that are thinking about getting into business.

In conclusion, just to tell you a little bit about the current status of our firm. We have about 180 people employed. We have impacted our one-time 76-percent unemployment rate to a significant extent. There are anywhere from four to six people in a family that are, by virtue of one person having a job, supported by that one income. It does take care of quite a few families at the Pueblo of Laguna that were unemployed as the result of the actual cessation of our mining operations in February 1982.

Of our total employee population about 82 percent that are Lagunas, about 9.5 percent are Indians in-laws from other tribes and about 8.5 percent are non-Indians.

That 8.5 percent needs to be highlighted because there is another aspect of Indian businesses getting into operation that needs to be looked at, and that is lack of education. Education, especially in the areas of engineering, mathematics, physics, is lacking. I couldn't turn and look to any of my tribal members to bring electrical engineering degrees or mechanical engineering degrees into the company. I had to look outside, and have been fortunate to find

some people that have retired from companies like GE and Sperry-Honeywell, as it is now known, in different capacities such as financial management, controllership, and production management to bring into the company. Of course the salaries that they earn with our company are considerably less than what they were used to. But yet, that type of corporate sponsorship and support to our operation, albeit indirectly from GE and Sperry-Honeywell, has also helped to provide a better basis for future business opportunities on our part and also to provide a teaching mechanism for the younger managers in our organization.

I would like to see one of those younger Laguna managers come up through the ranks and be representing the company in at least another few years. I would like to see myself out of our business, moving in a new direction, either very much into the private sector on my own or helping the Pueblo out with another type of business entity that they might choose to set up.

Thank you very much for the time that you have allowed me. I, too, am available for questions, Mr. Chairman, Senator McCain.

[Prepared statement of Mr. Solimon appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Solimon. It would be most helpful to the committee if you could provide us with a memo on your 5 years experience in the certification process. I think it would be a good case study for us to look over. From that we may be able to learn a few things on how to avoid these barriers.

Mr. McKay, if you could also furnish us with a memo on your experience with the other tribes that had connections with the London-based company.

Mr. MCKAY. Yes; I will do that.

[Material to be supplied appears in appendix.]

The CHAIRMAN. It will give us something to consider.

I would like to now call upon Senator McCain who is, as you know, in the forefront of this endeavor.

Senator MCCAIN. Thank you, Mr. Chairman. Thank you again for your kind words.

Mr. McKay, what provision for conflict resolution exists between the tribe and Brunswick? In other words, if there is some dispute between the tribe and Brunswick, how do you resolve those issues?

Mr. MCKAY. I believe we've got our annual board meeting scheduled for May. As indicated, there have been some disputes in terms of the amount of I guess what it has cost Devils Lake Sioux Manufacturing Corp., to retain the Brunswick connection so to speak. Right now we pay or we have been paying 10 percent of our pre-tax profits to Brunswick as consultants. They have enjoyed anywhere from 70 down to 49 percent of any dividend declared. That has been kind of one of the thorny issues.

Senator MCCAIN. I was more interested in the procedure that you use for resolving conflict. Is it just annually you sit down and meet?

Mr. MCKAY. We have had a series of meetings since December. We have not had a meeting now I believe for 1 month or so. We had tried to get some of these issues resolved. Brunswick was unable to come out and meet on two or three occasions, but we have had a couple of meetings since then

Senator MCCAIN. Thank you, Mr. McKay.

Mr. Solimon, can you tell me as an estimation how important it was to the success, and indeed I think it is a wonderful success story thanks to dedicated people such as yourself, but can you tell me how important a factor in the success of Laguna Industries was the fact that there was a separate board of directors that was divorced from the tribal council that was running this corporation?

Mr. SOLIMON. As many people that are here in business know, if you can't make decisions within a reasonable time, you are dead in the water. If we had to present every single business decision to the tribal council, we would be about 2 years behind our schedule, simply because they meet once a week, whereas our board of directors, in the startup phase, were required by the urgency of certain issues to meet almost at a moment's notice in order to resolve some issues.

The accessibility and mobility of the board of directors lends itself to the type of business that we are in, whereas if it were truly a tribal enterprise under the control of the tribe, it would be very difficult to make the type of business decisions we or I routinely make and this would really be an impediment to progress.

Senator MCCAIN. Could I draw the conclusion that you would recommend as much as possible tribal enterprises having a board of directors in corporations such as the model of Laguna Industries?

Mr. SOLIMON. Yes; I would. I would suggest to them that they establish boards of directors and bring in people that are in business in different areas, maybe even look to some of the corporations that are in their particular area to provide some of that leadership as members of the board directors, much the same as, for instance, Steve Stallings' organization UIDA has several people from the different major corporations.

In order to improve Laguna Industries' business capabilities I would like to begin to rely on people in the Albuquerque and New Mexico business community to come and sit on my board and thereby provide for the future growth of Laguna Industries.

Senator MCCAIN. Thank you very much, Mr. Chairman.

Thank you.

The CHAIRMAN. Thank you, gentlemen.

I would like to now recognize the distinguished colleague from Alaska, Senator Murkowski, to introduce our next witness.

Senator MURKOWSKI. That's very kind of you, Mr. Chairman. I appreciate that very much.

We have Mr. Steve Johnson, assistant land and resource manager for Kootznoowoo in Angoon, AK, and an associate I believe. Is that correct, Mr. Johnson?

STATEMENT OF STEVEN A. JOHNSON, ASSISTANT LAND AND RESOURCE MANAGER, KOOTZNOOWOO, INC., ANGOON, AK, ACCOMPANIED BY PAMELA J. MAZZA, ESQ., TIGHE, CURHAN & PILIERO

Mr. JOHNSON. That's correct.

Senator MURKOWSKI. Would you care to introduce your associate.

Mr. JOHNSON. My associate happens to be Pam Mazza.

Senator MURKOWSKI. Thank you, Mr. Chairman. I would defer the gavel back to you.

The CHAIRMAN. I called on my colleague from Alaska because I had difficulty pronouncing Kootznoowoo.

Mr. JOHNSON. You did very good there, Senator.

Senator MURKOWSKI. You may do better than I.

Mr. JOHNSON. I would like to introduce Ms. Pam Mazza, an associate of Tighe, Curhan & Piliero, our 8(a) firm, or 8(a) law firm, that is.

Senator MURKOWSKI. I didn't know law firms were, we could categorize them by number, but I'll remember that, Mr. Johnson—8(a) is this particular law firm, is that correct? It is much easier than their full name which is—what is it again?

Ms. MAZZA. Senator, it is Tighe, Curhan & Piliero

The CHAIRMAN. Yes; 8(a) is easier.

Senator MURKOWSKI. Much easier. Well, we are all known by our social security number. It's only fair that we refer to our law firms by number

The CHAIRMAN. Mr. Johnson, please proceed, sir.

Mr. JOHNSON. Thank you, senator.

Chairman Inouye, Senator Murkowski, Senator McCain, and members of the committee, I am pleased to have been invited to testify and to present the views of Kootznoowoo, Inc., and Kootznoowoo Government Services, Inc., which is actually incorporated in the State of Delaware for the purposes of 8(a) corporations, and to express our views regarding the barriers of native American participation in Government procurement contracting programs. Kootznoowoo is an Alaskan Native Claims Settlement Act corporation, ANCSA corporation, as it were, and it is located in Angoon, AK, which is on Admiralty Island.

Kootznoowoo wholeheartedly commends and supports this committee's efforts and its recognition of the need for changes of its Government procurement programs which, while designed and developed to assist minority business, do not and have not in fact benefited native Americans, including Indians and Native Hawaiians.

We respectfully request that any recommendations made by this committee to the Senate Small Business Committee in connection with its 8(a) reform legislation in S. 1993, or to any other committee, specifically include language application to ANCSA corporations, Alaska Native Claims Settlement Act corporations

Congress has previously recognized the special status of Indian tribes, including Alaskan Native corporations, by explicitly providing for presumptions that Indian tribes are socially and economically disadvantaged.

This testimony will focus briefly on the specific experience of Kootznoowoo Government Services in the process of going for 8(a) applications to be warranted by the SBA as an 8(a) corporation and the unique requirements of certification of native tribes and native corporations. I have found that the certification, the recommended proposal will facilitate the betterment of American natives to be able to participate in the program in Government procurement activities.

The sad truth is that the SBA has neither the regulations nor the internal operating procedures to provide its field personnel with guidance as to the appropriate way to certify native tribes or even native corporations in Alaska's case, although native regional and village corporations have been included in the definition of "socially and economically disadvantaged" persons under the 8(a) program since 1986.

Since that time SBA has been developing regulations to implement certification procedures for ANCSA corporations. It is unclear at this time when the proposed regulations will be published for comment and whether they will address, in fact, the problems faced by native corporations and tribes in obtaining certification. For this reason, we recommend that the Congress provide guidance to the SBA in seven areas outlined below to require the SBA to promptly promulgate regulations implementing this guidance.

Kootznoowoo's own continuing experience in attempting to gain 8(a) certification is a prime example of the SBA's current ineffectiveness in this area. In mid-1980, when Kootznoowoo first became interested in obtaining an 8(a) rating from the SBA, and they went to the Seattle region which has jurisdiction over Admiralty Island and left the meeting discouraged and disappointed because our impression was that the Seattle region was not interested in taking upon itself the process of certifying the native corporation from Alaska because it had never previously done so. We were, in fact, encouraged not to pursue certification at that time.

However, in February 1987, Kootznoowoo made a decision to pursue 8(a) certification for its newly established subsidiary, Kootznoowoo Government Services, [KGS].

In March 1987, Kootznoowoo submitted our first phase of the application, which is a two page application. The SBA's sole chore was to determine whether there was available work in the industry selected by Kootznoowoo Government Services. The SBA did not approve the phase I application for 7 months.

In fact, the application was first rejected by the Seattle region on the basis that there was no local buy work available in the State of Alaska.

Senator MURKOWSKI. No local what?

Mr. JOHNSON. No local buy by DOD. In a sense, they were saying there was no market for any DOD contracting in Alaska for 8(a) companies.

Ms. MAZZA. Specifically in the Angoon area, Senator.

Senator MURKOWSKI. Might I ask what were you prepared to provide in the DOD area?

Mr. JOHNSON. We were looking toward computer services and data processing analysis in the Government. Despite the fact that the SBA's full charge was to determine whether there was work available in the industries selected, the SBA did not approve the phase I application for 7 months.

Absent intervention from the SBA central office, the application would have been rejected by the Seattle region.

The phase II portion of the application was submitted in November 1987, and 3 months later the SBA has now asked us for additional information including information such as present unemployment rate for the members of the corporation, the per capita

income of the members, the percentage of members below the poverty level, and the village corporation's access to capital markets as evidence of economic disadvantage. We do not know how much more time will elapse before the SBA processes our application. However, despite our qualifications, we are not certain that the application will be approved.

Congress recently reaffirmed its commitment to recognizing the eligibility of native corporations for minority business enterprise programs pursuant to the Alaskan Native Claim Settlement Act Amendments of 1987. Specifically, the act recognizes that all native corporations and direct and indirect subsidiary corporations, joint ventures, and partnerships of the native corporations must be considered corporations owned and controlled by natives and a minority business enterprise for all purposes of Federal law. Kootznoowoo falls squarely within this definition.

Despite this recent confirmation of native corporations' status as minority business enterprises by Congress, the SBA is continuing to have difficulty processing 8(a) applications submitted by native tribes and corporations. Moreover, most information being requested of Kootznoowoo Government Services, including the personal financial statements of the entire Kootznoowoo board of directors, is unnecessary and does not take into account the unique circumstances of the corporation.

As a result, to require the SBA to streamline its certification process and provide valid reasons for a refusal to certify a native corporation, we recommend that the Senate and House amend their current bills to provide that if the SBA fails to process 8(a) certification applications for native tribes and native corporations within 90 days and fails to state legitimate reasons why the application should not be approved, the application for certification should be deemed approved.

In addition, as a result of the current deficiencies in the SBA's administration and processing of 8(a) applications for native tribes and ANCSA corporations, we recommend that Congress enact a statutory provision directing the SBA to promulgate the following regulations pertaining to certification of Indian tribes and ANCSA corporations.

No. 1, natural resource revenues received by Alaskan Native groups, individuals, and regional or village corporations should not be included in calculating average annual revenues in determinations of "economic disadvantage."

No. 2, that natural resource revenues should not be included in calculating average annual revenues for purposes of standard industrial classification code eligibility based upon size.

No. 3, the 8(a) ANCSA firms should be exempt from affiliation criteria concerning their association with ANCSA village corporations and regional corporations.

No. 4, the principles of an SBA case, the *Doyon* case, exempting the village and regional corporations from affiliation standards should apply as well when there is no separate corporate subsidiary.

No. 5, the physical location of ANCSA 8(a) businesses must be flexible to allow for greatest competition.

No. 6, require the expeditious consideration of ANCSA Section 8(a) applications.

No. 7, ANCSA corporations must be exempt from the 2-year corporate existence requirement which provides that an 8(a) concern must be in existence for 2 years prior to entry into the program.

Most of these recommendations could appropriately be expanded to native tribes as well.

Briefly, the seven recommendations are mandated by the widely recognized unique status of native corporations and tribes within the United States, their unique relationship to the Federal Government and the inability of the SBA to effectively administer the 8(a) program so it may benefit native Americans. For instance, regulations excluding natural resource revenues from a determination of economic disability and standard industrial classification code eligibility under specific size standards are required because of the unique nature of the Indian tribes' and native corporations' rights in the natural resources.

The U.S. Government provided native corporations with their rights in the natural resources to redress prior injuries.

In an analogous situation, the Internal Revenue Code specifically recognizes that any moneys received as compensation for prior injury is not deemed income and therefore is not taxable. The Small Business Act itself already recognizes that judgment awards are excluded in determining per capita income of the members of an Indian tribe. Accordingly, the exclusion of revenues derived from natural resources should also be excluded in both calculating economic disadvantage and determining size eligibility under a specific standard industrial classification code.

Moreover, we have recommended that the SBA be directed through legislation to promulgate regulations explicitly codifying the principles of the *Doyon* case which recognizes the unique position of Alaskan Natives. The *Doyon* rule provides that subsidiaries of Alaskan Native corporations are not subject to affiliation rules. The recognition of the unique status of Alaskan Native corporations also requires that the *Doyon* rule be expanded to situations in which there are no formal corporate subsidiaries.

As stated previously, Kootznoowoo's original phase I application was originally denied due to a lack of a local buy requirements. The SBA must be required to promulgate a regulation which specifically clarifies that village corporations be able to locate and operate 8(a) offices outside of Alaska due to the physical, economic, and commercial isolation of Alaskan Native corporations from the rest of the country. Native corporations should be permitted to establish headquarters and offices outside of Alaska. The establishment of 8(a) native corporations will permit them to bring back jobs to their own geographic area.

Moreover, our request that native corporations be exempt from the current SBA requirement thatn an 8(a) concern be in existence for 2 years prior to entry into the program is necessary due to the realities of the commercial environment of native corporations.

On December 11, 1987 Kootznoowoo, Inc., and KGS, through its 8(a) law firm, submitted a more detailed explanation of the need for these seven clarifications to the Administrator of the Small

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Business Administration. With your permission, I would like to make this position paper available for the record.

In addition to the seven recommendations detailed above, we believe that prime contractors have not adequately fulfilled their duties under Public Law 95–507 which requires that they subcontract with minority owned concerns.

At a minimum, we recommend that a provision be added to S. 1993 to give prime contractors a 5-percent incentive payment of the contract price for subcontracting with native corporations as well as other tribal enterprises. We believe that the enactment of such an incentive program would have a direct beneficial effect on subcontracting opportunities for Indian and Hawaiian native firms.

For example, this 5-percent payment would provide incentives for prime contractors to set up operations in isolated areas such as Alaska, an undertaking which otherwise may be too costly to pursue.

Moreover, in anticipation of ultimate certification into the 8(a) program, we support the testimony heard today and recommend the following changes to S. 1993: One, an exemption for Indian tribes and ANCSA corporations from the requirement to compete on procurements of a specific amount similar to the exemption contained in H.R. 1807; two, an increase in the number of years which native tribes and native corporations may participate in the program; three, a modification to permit joint ventures that include a non-8(a) enterprise to receive 8(a) contracts; four, elimination of the prohibition of receiving a contract that is more than 150 percent larger than a previous contract; and, five, the elimination of the mandatory requirement that 8(a) concerns have a specific percentage mix of 8(a) versus non-8(a) contracts during each year of participation in the 8(a) program.

Finally, we believe that this committee should formally request that the Department of Defense and the Armed Services Committee consider amending the section 1207 regulations governing the small disadvantaged business set-aside regulations to specifically include Indian tribes as it is defined under the SBA's 8(a) regulations to include Alaskan Native village or regional corporations as a group presumed to be socially disadvantaged.

Currently, the section 1207 regulations contain all of the SBA's presumed categories of social disadvantage except Indian tribes. If the section 1207 regulations are not amended, ANCSA corporations will face increased challenges to their status as economically and socially disadvantaged firms, thereby decreasing their ability to benefit from the small disadvantaged business set-aside program.

Mr. Chairman, we would appreciate the opportunity to supplement our submission by the end of this week as there are other areas that we would like to address.

We look forward to continued opportunities to work with this committee to increase native American participation in government procurement contracting.

[Prepared statement of Mr. Johnson appears in appendix.]

The CHAIRMAN. Thank you very much.

Is it your contention that the definition of "Indian tribes" in SBA's 8(a) regulation does not include Alaskan Natives?

Mr. JOHNSON. They do, and we feel that we have been more or less encouraged not to apply, as I stated earlier.

The CHAIRMAN. They are not included?

Mr. JOHNSON. Pardon me?

The CHAIRMAN. They are included as Indian tribes?

Mr. JOHNSON. We feel that we are included, but not to the point where the SBA will include us in this application process, so we have found.

Ms. MAZZA. Senator, excuse me. The definition in the 8(a) regulations does specifically include the corporation. There is some difficulty with the certification process. The Department of Defense section 1207 regulations to implement their 5-percent goal of increased minority contracting do not parrot exactly the language of the SBA regulations. It may have been an oversight, but we think that it should be included specifically that ANCSA's are covered under section 1207 as well.

The CHAIRMAN. So you are contending that native Americans in Alaska are not given the same preference as native Americans in the lower 48?

Mr. JOHNSON. No; I think native Americans will include Alaskan Natives in saying that we are not being given this opportunity to pursue Government procurement contracting through SBA 8(a) ratings.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Johnson, are you satisfied that 5 percent would be a sufficient inducement to allow you to compete? We have had one witness that indicated that 5 percent in his opinion was inadequate.

Mr. JOHNSON. I'll stand on 5 percent.

Senator MURKOWSKI. When you attempted to get certification for, I believe you indicated computer capability, service items associated with your interest in developing an expertise in Angoon to sell to the Department of Defense, what was the Department of Defense's reaction to your proposal and/or SBA's?

Mr. JOHNSON. They had no idea as to what category of work or availability of work was going to be in Alaska, but they were certain that with the Navy considering moving into Alaska, southeastern Alaska for that matter, that would definitely bring some work in computer services. But at this point I do not know exactly what the details are for any DOD work.

Senator MURKOWSKI. What particular expertise do you feel that you had to offer them?

Mr. JOHNSON. The expertise that we find that we have is the computer services, generating, processing and the like.

Senator MURKOWSKI. How many people do you have actively involved in this capability?

Mr. JOHNSON. Besides the manager, I would say five at this point.

Senator MURKOWSKI. Well, we both know Alaska, we both know southeastern Alaska, and one of the difficulties of course that you have to overcome is the ability to in a relatively isolated area provide the technical services to the Department of Defense or any agency that might be soliciting services. I guess the question comes, somebody has to evaluate the true capability and whether indeed

you can meet the criteria of a competitive bid with the terms and specifications. But that's another issue for another day.

The reality of having the opportunity to compete under SBA is what this hearing is all about, and I support the basic premise of allowing a differential necesary to encourage Indian corporations and businesses to participate in this function. But I would caution you that you can spend an awful lot of money with a great deal of expertise, and the reality of your being able to meet the competitive bid requirements are the real concerns, and the sensitivity of spending the money and then finding that it is beyond your true expertise in the sense that you have been able to provide such service.

It is awful tough to initiate these services if you haven't had the experience and exposure. I don't mean to say this to discourage you, I just mean to say it in the sense that, you know, there is a real world out there. We can't even get agencies in Anchorage that have communications expertise and knowledge and associated with universities and so forth to have the capability to bid on Department of Defense contracts of any consequence in Alaska.

So as you go further out in the sense of the outreach areas of our State, it is just that much tougher. That sophistication, in my opinion, is difficult to develop in the areas in Alaska where we have some of the technical and research resources available. So it is going to be an uphill battle.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I thank you, Mr. Johnson.

Mr. JOHNSON. I thank you. I feel I must say, Senator Murkowski, that I do agree with you on your first point in that the computer business is very competitive of late, and it is fast moving and it is highly technical, but we are willing to face the challenge to see if we are competitive enough to assert ourselves for such a contract.

Senator MURKOWSKI. Well, a start would be the private sector of Alaska, and if you can be competitive in that, or the private sector in southeastern Alaska, well that will give you some track record to go after some of the Department of Defense business.

Mr. JOHNSON. Thank you.

The CHAIRMAN. Our next panel consists of the vice president of Raytheon Services of Burlington, MA, Mr. Jim Sloan, and the president of the Defense Division of Brunswick Corp., Skokie, IL, Mr. Herbert Ennis. Mr. Ennis will be accompanied by Mr. Bob Richmond of Brunswick Corp., Beland, FL.

Gentlemen, welcome.

STATEMENT OF JIM SLOAN, VICE PRESIDENT, RAYTHEON SERVICES, BURLINGTON, MA

Mr. SLOAN. Thank you, Mr. Chairman, and members of the committee for asking Raytheon Services Co. to be represented here today.

Ron Solimon previously discussed with you the history and the background of the Raytheon Laguna project, and I won't duplicate that discussion. I have submitted for the record a more detailed testimony which I would like to have put into the record.

The CHAIRMAN. Your statement will be made part of the record, and all prepared statements will be so reported.

Mr. SLOAN. Thank you.

The Raytheon Co. is the sixth largest defense contractor with the Department of Defense. So when we were approached by the people from Laguna to assist them in economic development, we of course thought we ought to be able to help set them up in the defense business in some fashion.

It took 5 years of extremely concentrated effort on the part of both Raytheon and the Laguna people, to make that happen, and Ron described how that did occur.

I will have to say that in all of our years of defense contracting the bureaucracy we encountered on all sides of that program was just incredible. I certainly agree that the methods that the Small Business Administration used for their certification process have to be changed and streamlined as the previous speakers have talked about.

From the industry side, I just can't imagine why people are patient enough to put up with that. It really could be done much better.

The CHAIRMAN. In other words, you have fewer problems with the big contracts than with the small ones?

Mr. SLOAN. Absolutely, absolutely. Now our experience with Laguna Industries does certainly support the points that have been previously made for changes in the Small Business Act.

There are two things that I want to specifically emphasize. One is this restriction on the size of follow-on contracts. There is no way in which the normal defense contracting business can be properly done if one starter contract isn't followed by a whole series of increasing contracts.

As Laguna this morning told you, they started out with $10 million, now they have over $50 million. If there were a 150-percent limitation on the increase in that contract or new contracts, they would be out of business. Furthermore, the tribe wouldn't have been willing to invest the money they did in a new venture to get it started, nor would the customer have gotten a satisfactory product.

As far as making joint ventures possible, if the Pueblo Laguna had not had financial resources of its own in order to support that project, there would have been no way in which that program would have proceeded. If they were permitted a joint venture with a company like Raytheon, then as part of our normal marketing and business development expenses we could have helped if we had been a participant in a joint venture. Under the circumstances we were working with at the time, somebody had to produce some capital resources in order for that program to begin. It was just very fortunate that they had been able to save some of the money from the royalties for the operation of their mines so that they did have the resources and the financial savvy to make an investment.

They still needed additional money from other places to help them, but the main issue is that joint ventures would permit small startup operations to succeed because there is somebody in back of them with enough financial resources to hang in for the 3, 4, or 5 years it may take in order to develop the business.

Once a program is started, the existence of the joint venture like the one the Brunswick people have up in North Dakota can proceed for a long period of time with reasonable success.

In our case, we had a maximum of nine Raytheon employees at any one time at Laguna Industries during the training and development phase of that contract. Our last person is walking out of there by mutual agreement at the end of this month. Laguna will be totally on their own. Everybody out there starting on March 1 will be an employee of Laguna Industries. Our job was to get them started, help them along the way, train them, and then back off. We have done that, and I think Ron would probably say that he is happy with what has happened.

We are looking at other projects just like that, and we are hoping to be able to do similar work with other Indian programs.

The 5-percent bonus would be helpful, a minimum of 5 percent would be helpful. We didn't have that available to us on this program, and we don't expect that it will be available for the near future. We are proceeding as if that won't happen, although it would be very good if it did.

The cost of the program management of the subcontract may run 5 to 10 percent. So it is not that likely that that 5 percent would end up being a profit. It would probably just cover additional costs and risks involved in bringing on any new supplier which we do all the time.

I understand we are running short of time, so I think the rest of the comments I would make are in my submitted testimony. If you have any questions, I would be pleased to answer them.

[Prepared statement of Mr. Sloan appears in appendix.]

The CHAIRMAN. Did you find your experience with the Laguna Indian Tribe to be profitable or expensive?

Mr. SLOAN. It was a profitable business for the Raytheon Service Co. When we began our work with Indian programs our main criteria was that both sides have to make money. It has to make good business sense for both parties or it just won't work.

It also meant that on the part of the tribe, they have to have an investment themselves in it. It is very important that the person being helped has a personal stake in the outcome too as opposed to just spending Government money and then going on to another program. We are satisfied with the profits we made on that program. That's one of the reasons we have chosen to proceed with developing new projects in the same area.

The CHAIRMAN. Well, I would like to commend your organization for preparing yourself to assist native American Indians, and I am also pleased to learn that it was a profitable experience.

Mr. SLOAN. Thank you. We are pleased too.

The CHAIRMAN. Mr. Ennis.

STATEMENT OF HERBERT E. ENNIS, PRESIDENT, DEFENSE DIVISION, BRUNSWICK CORP., SKOKIE, IL, ACCOMPANIED BY BOB RICHMOND, BRUNSWICK CORP., BELAND, FL

Mr. ENNIS. Thank you very much.

I am pleased to be here, and again because of the interest of time, I am not going to read my statement. I am just going to try to summarize a few highlights.

I must start off by saying I think I take a different attitude than most people here and try to express that.

First of all, from my experience, in addition to being president of defense division of vice president of Brunswick Corp., I am a director of Devils Lake Sioux Manufacturing and for a number of years I was also its president. I also serve and am responsible for the management of the A&S Tribal Industries Co. in Montana, and I now serve on the advisory board for the Navajo Tribe in Arizona under Chairman Pete McDonald. So I have been working with various Indian companies for 15 years, and with Mr. Richmond here who was a key man in the building fo Devils Lake Sioux, I think we have a lot of insight and experience.

I echo the thought that an important principle is profitability. Private industry will not enter reservations, as much as they have social obligations and desires to help—and we do have that—but the profit motive is what makes the system work. I believe that the capitalistic system can work in Indian reservations providing there are certain safeguards.

The attitude of what I call perhaps "social welfare" as a broad term of just trying to be helpful and amending 8(a) regulations and 5 percent add-ons I think is of limited value in my personal opinion. I think it is more important that these reservations be helped by giving them an opportunity, because they are very good workers—and an intelligent group of people, but they don't have the historical education or the industrial background. I can compare when we went to Montana in the A&S Tribal Industries. They had 10 years of history before we were there of running a couple of their own companies. We were able to pick managers, middle management, with our three or four key people make it work.

At Devils Lake when we started there was no background, no experience. Even after 14 years of working we have a big problem in training management despite what has recently happened. I think it is going to take a long time because you just have to get people who are educated and experienced to run industrial companies and recognize that it takes the profit motive to make it work.

In our case, one point I would like to make is that we went in and took a risk with the company. We were willing to work on a management consulting service on the basis of a share of profits, 10 percent of pre-tax profits, which is really 1 percent of sales. But if there are no profits we received nothing. At the time we started we had no idea whether we would lose money or anything else.

It turned out to be an extremely profitable company, one that grew to $70 million in sales and $8 million in after-tax profits, put 500 people to work, In 1987 there was some business decline due to competition, but it is still very profitable. As long as you have that and those motives, it will work.

When you set motives to protect jobs and have to make certain friends of people into managers, you are going to have problems. I believe in the capitalistic system and I believe that can work.

So on that basis, without a lot of detail, I will just sum up and say that we recommend, one, encouraging joint ventures of Indian

tribes with corporations of substantial size and extensive experiencing in contracting with the Federal Government as the most effective means of enhancing Indian participation in Government procurement. However, in order to attract and retain such corporations as partners in these ventures, any proposed arrangement must assure with legislative support where necessary that: the financial incentives to corporations are sufficient to induce its best efforts toward profitability and joint ventures; the corporation's investment and legal rights as defined in any related contractual instruments and generally under the U.S. Constitution are fully protected from the vagaries of tribal politics and from unfair and unreasonable tribal taxation; and the requirements and goals for Indian participation in management and in the work force are realistic, considering the specific circumstances of the tribe and of the reservation involved.

With regard to the 5-percent incentive, while I support it, I personally don't believe it will work. All things being equal, the incentive may make a difference, but our experience is that all things are seldom, if ever, equal. You've got to have a qualified company and have to be in the ball park of competition. If you don't have that, whether it is 5 or 10 percent, I don't believe that's going to work significantly.

The other recommendations I would support.

I have one other comment. There was a question asked by Senator McCain as to where jurisdiction would be in disputes. Because of tribal laws on reservation which we respect the only other area is Federal court.

That ends my statement. I will be glad to answer any other questions.

[Prepared statement of Mr. Ennis appears in appendix.]

The CHAIRMAN. What was your experience with the bureaucracy of SBA and DOD?

Mr. ENNIS. Not too bad. They were very supportive. In those days, and that is 14 years ago, there was a great deal of support and a great deal of help. We worked very effectively, SBA monitored our contracts and made sure that they were fair. We have divestiture agreements. The DOD was extremely helpful.

Those same rules and conditions do not exactly exist today. I understand that if we try to do the same thing today we would run into problems. But in general I would commend both the SBA and the DOD in being extremely helpful.

The CHAIRMAN. That was 14 years ago.

Mr. ENNIS. Well, they are still helpful. I still have very good relations with both the SBA and Mr. Richmond, and the Army. But there are changed regulations, and that is one of the areas of concern.

The CHAIRMAN. We are very pleased to have both of you here because both of you have had experience in working together in joint ventures with Indian tribes. For that we thank you very much. We hope that our work with the SBA and DOD will add more big companies next time. Thank you.

Mr. ENNIS. Thank you.

The CHAIRMAN. I would like to call a 5-minute recess, but before I do, may I call upon the next panel, the director of the Depart-

ment of Hawaiian Home Lands in the State of Hawaii, Ms. Ilima Piianaia, the executive director of Alu Like, Inc., Honolulu, HI, Mr. Myron Thompson, and the deputy director of the office of planning, State of Hawaii, Mr. Murray Towill.

[Recess.]

The CHAIRMAN. Well, you are the wrapup panel. I am pleased to have with us the illustrious director of the Department of Hawaiian Home Lands, Ms. Piianaia.

Ms. PIIANAIA. Aloha, Senator Inouye.

I would like to ask Murray Towill to precede me. Murray was former deputy director with the State department of business and economic development. He is now deputy director of the newly formed office of State planning. I would like to ask him to precede me because Mr. Towill will give an overview, a very brief one, we plan to be very brief, of the economic system in the Hawaiian Islands.

Murray.

The CHAIRMAN. Mr. Towill.

STATEMENT OF MURRAY TOWILL, DEPUTY DIRECTOR, OFFICE OF PLANNING, STATE OF HAWAII, HONOLULU, HI

Mr. TOWILL. Thank you, Mr. Chairman. It certainly is a pleasure to be here. What I will try to do is provide somewhat of an overview of economic development and some of the trends we see in the State, and hopeful that will provide somewhat of a foundation for the remarks that follow and build a little bit on what the Governor said earlier this morning.

As I am sure you are well aware, there are four basic industries or four basic activities that drive the economy of our State, those four being the tourist industry, defense expenditures, and the pineapple and sugarcane industries. Together they account for almost one-half of our gross State product with the tourist industry accounting for almost 30 percent of our gross State product. We are a community or an economy very dominated by a few large industries.

So one of our major attempts or one of our major efforts has been to diversify that economy, recognizing that a number of the diversification attempts or activities that are presently underway are not likely to bear fruit for many years. We are looking very hard at expanding or increasing the astronomy activities that are occurring on Mauna Kea. We are actually exploring the possibilities of commercial satellite launching facilities. We have some exciting opportunities in the fields of alternate energy, geothermal development on the big island in particular, as well as ocean thermal energy conversion activities, OTEC, taking advantage of the temperature differential in the water to generate power.

Since we export over $1 billion a year to purchase petroleum to power our electrical generation plants, anything that will provide locally generated power or use local energy sources to generate electricity has a profound impact on our economy.

We are also trying to take advantage of some of our natural resources or our assets. We lack many of the physical assets that other communities have that allow them to get into manufacturing

type of activities. What we have as advantages are our ocean, the resources in the ocean, and the ability to utilize some of those resources, primarily through aquaculture. Another advantage is agriculture; we can grow just about anything in the State. Our problem is trying to deal with some of our insect problems as well as finding markets for our products. So we are looking to expand or diversify our agricultural economy away from sugarcane and pineapple activities.

As I mentioned, we lack traditional manufacturing activities. In fact, almost one-half of our manufacturing employment is in food processing and kindred services. Basically that would be the sugarcane processing, pineapple processing, Macadamia nuts and some of our dairy operations. We have, based on our relatively isolated location and our small population and our small market, very few traditional manufacturing activities. So manufacturing is a very small segment of our economy. As a matter of fact, I think in terms of a percentage of employment, we rank 47th in 50 States in terms of manufacturing employment.

We have, however, as indicated by the dominance of our tourist industry a very service-oriented economy. That presents certain problems for us as jobs in the service sector traditionally tend to be lower paying jobs than those in some of the other sectors of the economy. We have a situation where our State has a high cost of living and has a high service sector segment which indicates that we tend to have a great many low paying jobs in the State.

We are also a community, again largely because of our service sector dominance, dominating by small businesses. The vast majority, over 75 percent, of busineses in our State have nine or fewer employees. So we are really a community of small businesses.

I think that is where the whole provision of providing an incentive in the 8(a) program has great merit for us in that it can provide the opportunities for Hawaiian entrepreneurs to start up a business and obtain the training and experience necessary for them to successfully compete within the larger marketplace.

We feel that this proposal before you does provide some significant opportunities for our State and for our economy and certainly provides Hawaiians an opportunity to compete within the private sector.

I would be happy to answer any specific questions you have, but I'll turn it back to Ms. Piianaia at this point.

[Prepared statement of Mr. Towill appears in appendix.]

STATEMENT OF ILIMA PIIANAIA, DIRECTOR, DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, HONOLULU, HI

Ms. PIIANAIA. Thank you.

You have my written statement. I would just like to make a few points to add on to my written statement.

I appear before you not only as director or as administrative head of the Department of Hawaiian Home Lands, I appear before you as chairman of the Hawaiian Homes Commission which was created in 1921, and it is the first Federal recognition of its trust responsibilities and relationship to the native Hawaiian people.

In our 67-year history we have focused primarily on homesteading. That is the primary purpose for the primary progam within the Hawaiian Homes Commission. We have approximately 187,000 acres of land statewide, which means that the Hawaiian community is not confined to regions but is a statewide community.

It is quite interesting, I've been on this job for 14 months, and when I went to look at where we stand in terms of landholdings, I am basically managing the fourth largest landholding in the State of Hawaii. This land base is the most precious part of our trust assets, and on that land base we are now furthering economic development programs. We will be looking at our lands, or are looking at our lands statewide.

The Governor this morning mentioned that in 1978 the Hawaii State Constitution was amended to address native Hawaiian issues. One of the areas that is of primary importance to the Hawaiian Homes Commission program is that in 1978 the Hawaii State Constitution was amended so that I can provide native Hawaiian preference for general leasing of Hawaiian homelands. This general leasing is essentially to raise income to run the program.

The General Leasing Native Hawaiian Preference was part of the overall thrust to assist Hawaiians to become economically self-sufficient. I needn't repeat the 200-year history of the Hawaiian people since western contact and the disenfranchisement of the Hawaiian people as well as the lack of participation in basically a totally different system from an etiological perspective that is a less than capitalist system.

We are making progress in all sorts of areas. We are making progress in economic development, we are making progress, especially through your help, Senator, in areas of education, in areas of health, in areas of job training.

We have a far way to go. In looking at what little data there is on native Hawaiian businesses and in looking at 8(a) SBA certified businesses, we found that at the present time there are 21 8(a) certified businesses in the State of Hawaii. There is an additional 8(a) certified business which is run through the Hawaii office but actually is in Guam. Of these 22 8(a) certified businesses, 3 are Hawaiian.

In the past year I believe it is close to half a million dollars in contracts were given to these three businesses. While that may seem exciting, the largest contract was for $330,000 for a security contract. The other two contracts were less than $100,000, one was $41,000 for an electrical contractor, and finally, the third contract was for $96,000 for a general construction contractor. The total comes out to $467,000 that was given to 8(a) certified Government businesses that happened to be Hawaiian. At this point we have no preference.

I want to make one point, and I think it is an important point—well, let me make two points. The first is that the 8(a) certification process in Hawaii has been very slow to get off the ground, and in getting off the ground there has been little, if any, tracking of what happens to native Hawaiian businesses. We in the native Hawaiian community services agencies, my sister agencies, including Alu Like, the Office of Hawaiian Affairs, Kamehameha Schools/Bishop

Estate, we are all striving to come up with a coordinated program. We need to track our people and our businesses.

We would like to see the incentive that is proposed put into some kind of form of preference for native Hawaiians.

The second point that I would really like to make is the largest number, the largest group of native Hawaiians in the State of Hawaii are below the age of 18 years. We need to look toward the future. As we make improvements in our health delivery and in the status of our health, as we make improvements in education and in job training, we need to help our young people, the bulk of our Hawaiian population, to move into whatever opportunities can be made available to them.

So this proposal for incentive to prime contractors for subcontracting with native Hawaiian businesses is an important step to us, not just for now, but for the future. It could make the difference between a small business failing or succeeding. We are really concerned about the future of our children.

The act that I administer was basically promulgated by the U.S. Congress to prevent the extinction of the Hawaiian race. Mr. Thompson and I, and this morning Governor Waihee, are testament that we are not yet extinct and that we have a very large group of young people that we need to provide for.

Thank you, Senator.

[Prepared statement of Ms. Piianaia appears in appendix.]

The CHAIRMAN. Mr. Thompson.

STATEMENT OF MYRON THOMPSON, EXECUTIVE DIRECTOR, ALU LIKE, INC., HONOLULU, HI

Mr. THOMPSON. Thank you.

Good morning, Senator. I would like to thank you again for inviting us to testify before your committee.

This morning I represent Alu Like, Inc. Alu Like means working together. It is an organization which was created in 1974 to administer Federal funds for native Hawaiian programs. Our business is to promote native Hawaiian economic and social self-sufficiency. We strive for that time when support programs will be unnecessary.

However, we are not there yet. Thus, I support the proposal to give preference to native Hawaiians along with the Indian and Alaska Natives in receiving subcontracts from businesses who have procurement contracts with the Federal Government.

Federal presence is immense in Hawaii, ranking fifth in the Nation—$4.6 billion was expended in 1986. Giving native Hawaiians preferences would have tremendous impact on our self-sufficiency efforts.

Please note that preference to native Hawaiians and Indians is in accordance with previous legislation which target native American groups.

Your committee is aware of the severe statistics of the status of native Hawaiians. In fact, you are responsible for enacting several measures on our behalf. What you consider today is in the same vein as previous actions.

Specific statistics related to Hawaiian business and economic well being are as follows.

No. 1, critical underrepresentation of native Hawaiians in business exists. Hawaiians are 20 percent of the population, yet analyses of 1982 data, and this tells a story too, the data isn't up to date, show they own only 2.5 percent of the businesses.

No. 2, Hawaiian-owned firms have among the lowest number of employees with an average of only three employees per firm.

No. 3, Hawaiian-owned firms have the lowest average pay per employee, $7,300 per annum.

Finally, the general revenues are lower than those of other minority owned businesses.

These statistics are not surprising. They correlate with the other data about native Hawaiians which I have already shared with you. Others have spoken about similar Indian data. Thus, targeting native Hawaiian and Indian and Native Alaskans is logical.

Our respective histories have striking similarities. Before the inmigration of newer peoples, the native Hawaiian and Indians shared common characteristics. One, they were politically autonomous; two, they were self-sufficient in their traditional economies and lifestyles, as they lived in good health and abundance; and, three, their agricultural systems and resource management were excellent; and, four, neither had a private property system, but they did control most, if not all, of the lands within their political boundaries until, by force, their nations were overthrown.

The coming of new people into both groups had synonymous impact. When Capt. James Cook arrived in the Hawaiian Islands in 1778, 300,000 to 400,000 Hawaiians were estimated to have been thriving at that time. By 1920, less than 150 years later, there were only 20,000 remaining. Their language, their culture, their health—all in jeopardy. The impact of this tremendous physical decimation was immeasurable, just as it has been for other native Americans.

There is also the similarity in the relationship we have with the Federal Government. Both have a trust relationship with the United States. In the case of the Hawaiians, Congress confirmed this relationship as early as 1920 when it created the Hawaiian Homes Commission Act of which Ms. Piianaia is the administrator.

Since then your committee and other equally concerned committees have legislated on behalf of Hawaiians. Native Hawaiians receive assistance through the Carl D. Perkins Vocational Education Act, the Library Services and Construction Act, and the Older Americans Act, to name a few.

I might mention, Senator, that in terms of entrepreneurial training, we are taking a very hard look through the use of the Carl D. Perkins Vocational Act funds to find out why there are only three of our native Hawaiians who have qualified for the SBA 8(a) act fund. Also in terms of other kinds of entrepreneurial training, we are attempting to fit the curricula to the learning styles of our people.

Proposals by your committee can be of critical importance to Hawaiians. I support any efforts to act on our behalf. It enhances the Hawaiians' desire to regain the self-sufficiency they once enjoyed in their homeland.

Thank you very much, Senator.

[Prepared statement of Mr. Thompson appears in appendix.]

The CHAIRMAN. Thank you very much.

The justification for the existence of this committee is based upon this unique trust relationship that the Government of the United States has with certain native Americans. This trust relationship can be traced back to either treaties or laws. In the case of Indians, we have both treaties and laws. In the case of Hawaiians we have, as pointed out by Mr. Thompson, the Hawaiian Homes Commission Act of 1920 which by law ratified the trust relationship that existed at the time of the turn of the century.

After statehood, the major responsibility of administering these lands was turned over to the Hawaiian Home Lands Commission, but the U.S. Government still maintains the final residual authority over the administration and implementation of this act. As you know, the activities of your department are subject to oversight and also subject to change by the Congress of the United States.

We are pleased with what we have heard of your operation. We have heard good things. But I gather that some of the restrictions placed upon the use of such lands has been an impediment in economic development.

Could you submit to this committee a paper on how changes can be made to the use of these lands that could assist in the economic development and well-being of native Hawaiians?

Ms. PIIANAIA. I would be more than happy to do so, sir.

[Material to be submitted appears in appendix.]

The CHAIRMAN. Mr. Towill, I was intrigued. I assumed all along that the State of Hawaii was number 50 among the 50 States when it came to manufacturing. You mean there are three States worse than us?

Mr. TOWILL. Yes; apparently there are, Senator. I don't know what they are offhand, but in going through some State and county statistics we came up with that fact. Like you, we had expected to be last, and maybe they are places like Vermont or whatever. I just don't know. I will find that figure for you though.

The CHAIRMAN. What is the overall unemployment figure in the State of Hawaii and specifically among native Hawaiians, if you do have statistics covering that?

Mr. TOWILL. The unemployment rate in the State is actually, as I think the Governor alluded to this morning, is very low, below 4 percent at this point. The statistics, I don't have a current unemployment rate for Hawaiians, but a number of years ago when there was some analysis done it was about 50 percent higher than the general population.

So unemployment, it is not similar to some of the figures we heard this morning, the 40 to 90 percent that were cited on some of the other tribal nations.

The CHAIRMAN. But isn't it also true that these numbers may be misleading because the greatest proportion of underemployment would be found among the native Hawaiians?

Mr. TOWILL. Most certainly, and you also have probably a substantial portion who are no longer even considered in the statistics because they are not continuing to seek or obtain jobs. So they are essentially outside of the statistical base.

The CHAIRMAN. Do you find many of them in service industries such as fast foods?

Mr. TOWILL. You do, and in hotel employment, different sectors of the hotel or the tourist industry.

The CHAIRMAN. Do you have any statistics on the number of Hawaiian families considered below poverty level?

Mr. TOWILL. I don't have those.

The CHAIRMAN. Can you provide us with that?

Mr. TOWILL. We certainly can.

[Material to be provided appears in appendix.]

Ms. PIIANAIA. Basically, and this is outdated, it is from the 1975 Census, or actually Alu Like's native Hawaiian profile which is probably the most current and accurate of all profiles of native Hawaiians. At that time 16.2 percent of the Hawaiian population was, I believe it was of the Hawaiian population, was at or below poverty status.

The CHAIRMAN. The poverty status was 16 percent? Do you feel it is above that or below that now?

Ms. PIIANAIA. Let me just respond this way. As Mr. Towill said, there are people who are totally outside of the statistical base which reflects a certain system. We have within the State of Hawaii, as you know, blessed by our wonderful climate and the type of resources we have, we have opportunities to fish and hunt. Many people add to their subsistence ability through these things. I think there are more people below the poverty level than is indicated by this measurement.

Getting a handle on the members is almost impossible. We really don't know, just as we don't know how many Hawaiians there are in the State of Hawaii or within the United States.

The CHAIRMAN. How many Hawaiian families are now residing on Hawaiian Home Lands?

Ms. PIIANAIA. There are 5,800 homestead leases. Homestead leases are issued to individuals. So one may say that this is 5,800 families. However, as you know, in the extended family system families double up. So while we have 5,800 households represented, I think those households encompass more than your traditional American nuclear family.

The CHAIRMAN. Do you have a waiting list?

Ms. PIIANAIA. Yes, there are currently 17,000 applicants for homestead leases, and most of these people have applied for leases since 1984 when the Hawaiian Homes Commission instituted a 3-year accelerated distribution of land program.

I must caution you that you may apply—we have basically three types of leases, residential, agricultural, pastoral, or ranching. You may apply for each type of leasehold. So the 17,000 may not indicate that many separate individuals, but if you divide by say 2½, you will probably get a closer idea of how many that is.

I am asking my staff at the present time to go and see who is being double counted.

The CHAIRMAN. Among the Indians the definition of an Indian is determined by his or her enrollment in a tribe. In other words, you may have a full-blooded Indian in this city who for some reason refuses to be enrolled and would not be legally considered an Indian

for the purpose of this act. How would you define a Hawaiian for the purposes of this act?

Ms. PIIANAIA. As you know, Senator, the originial proposal for the Hawaiian Homes Commission Act had no blood quantum. Congress levied a 50-percent blood quantum as the definition of a native Hawaiian. For the purposes of this act, as with other Federal legislation, I would suggest that we not use the 50-percent blood quantum. I would suggest that a Hawaiian with 1 ounce of blood is a Hawaiian.

The CHAIRMAN. Would you suggest a process of enrollment? We have an agency in the State of Hawaii constitutionally created, the Office of Hawaiian Affairs, made up of Hawaiians with the power to legislate on behalf of Hawaiians and authorized to be the repository of funds and lands. Would they be capable of setting up a system to enroll?

Ms. PIIANAIA. As you know, I can't answer on behalf of the Office of Hawaiian Affairs. I would like to ask Mr. Thompson to respond to that question.

Mr. THOMPSON. I am certain that they have the capability that needs to be built into the system, but the potential is there.

One other point. At Alu Like we have begun what we call a genealogical project, and we have every youngster on our computer who was born since 1941 whose parents declared that child to be part Hawaiian. It is documented in our health statistics. We are moving with that project to births prior to 1941. We are also including the archival work that has already been completed in terms of genealogies of different families.

So the potential is there and needs to be developed, and if the Office of Hawaiian Affairs gets themselves into the position of being capable of handling this, we would be willing to turn it over.

The CHAIRMAN. I would like to thank you all of you for waiting this long and appearing before us. Your testimony has been extremely helpful.

As you pointed out, Mr. Thompson, there are many parallels, for example, in the area of project statistics, between the native American Indian and native American Hawaiians. It may be of interest to the native American Indians to know that as a result of a recent survey in Hawaii, we learned that 60 percent of Hawaiian youth are either deaf or suffering from measurable hearing losses, which is the highest of any ethnic group. As a result, Gallaudet University has opened up an operation in the State of Hawaii to assist our school teachers to, first, recognize our deaf children, second, teach us how to deal with the deaf.

There is some correlation with poverty, but never to this extent, 60 percent. We hope that we may be able to cope with this problem.

This committee has an important job ahead of us, and I can assure you that as long as I am around here I don't intend to have another meeting 5 years from now to listen to the same complaints. We will have results within 1 year.

With that, I thank all of you. The meeting is adjourned.

[Whereupon, at 12:28 p.m., the committee was adjourned.]

APPENDIX

Additional Material Submitted for the Record

PREPARED STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

GOOD MORNING AND WELCOME TO THIS OVERSIGHT HEARING ON "BARRIERS TO NATIVE AMERICAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING".

THE ECONOMIC DEVELOPMENT AND MANAGEMENT OF FOR-PROFIT BUSINESS ENTERPRISES IS STILL A RELATIVELY NEW EXPERIENCE FOR INDIANS, NATIVE ALASKANS AND HAWAIIANS, AND PARTICULARLY FOR THOSE WHO HAVE MAINTAINED A RURAL LIFESTYLE. WHILE IMMIGRANTS TO THIS LAND CHOSE TO COME IN PURSUIT OF ECONOMIC OPPORTUNITIES AND A BETTER LIFE FOR THEMSELVES AND THEIR CHILDREN, THOSE WHO WERE ALREADY HERE WERE NOT GIVEN ANY SUCH CHOICE. THEIR ONLY OPTION HAS BEEN TO TRY TO PARTICIPATE IN THIS CAPITALIST ECONOMY AND THEREBY GAIN GREATER SELF-SUFFICIENCY AND INDEPENDENCE. HOWEVER, DUE TO CULTURAL DIFFERENCES, GEOGRAPHIC ISOLATION AND THE ABSENCE OF EXPERIENCED CADRES OF BUSINESS MANAGERS, THEY FACE MANY BARRIERS TO SUCCESSFUL PARTICIPATION IN THE WORLD OF BUSINESS AND INDUSTRY. TODAY'S HEARING IS INTENDED TO FOCUS ON WAYS TO OVERCOME THOSE BARRIERS THAT ARE DIRECTLY RELATED TO DOING BUSINESS WITH THE GOVERNMENT.

IT IS WELL KNOWN THAT THE U.S. GOVERNMENT SPENDS BILLIONS OF DOLLARS PROCURING GOODS AND SERVICES FROM THE PRIVATE SECTOR. THE PUBLIC POLICY OF DIRECTING THAT PURCHASING POWER TO ACCOMPLISH SOCIAL GOALS SUCH AS ASSISTING DISADVANTAGED MEMBERS OF SOCIETY TO ALSO WELL ESTABLISHED. UNFORTUNATELY, AS THIS COMMITTEE HAS DISCOVERED IN PREVIOUS OVERSIGHT HEARINGS, THIS PUBLIC POLICY GOAL HAS NOT BEEN ACHIEVED WITH RESPECT TO THE PARTICIPATION OF BUSINESSES OWNED BY NATIVE AMERICANS. ON THE OTHER HAND, IT IS VERY CLEAR THAT ANYTHING WE CAN DO TO INCREASE THE PARTICIPATION OF NATIVE OWNED BUSINESSES IN GOVERNMENT PROCUREMENT CONTRACTING WILL HAVE A VERY BENEFICIAL EFFECT ON THE VARIOUS NATIVE AMERICAN COMMUNITIES. THEIR PRESENT LEVEL OF PARTICIPATION CONSTITUTES SUCH AN ABYSMALLY SMALL PERCENTAGE OF THE GOVERNMENT PROCUREMENT DOLLAR THAT ANY APPRECIABLE INCREASE IN THAT PERCENTAGE MEANS A TREMENDOUS INCREASE IN THE ECONOMIC BENEFITS TO THE NATIVE AMERICAN COMMUNITIES.

IN ADDITION TO SHARING COMMON CONDITIONS OF EXTREME ECONOMIC DEPRIVATION, THE VARIOUS NATIVE AMERICAN GROUPS SHARE A COMMON TRUST RELATIONSHIP WITH THE UNITED STATES. IT IS THIS TRUST RELATIONSHIP WHICH ALLOWS THE CONGRESS TO LEGISLATE UNIQUE BENEFITS AND TREATMENT FOR THE NATIVE AMERICANS. THE SUPREME COURT HAS UPHELD LAWS WHICH PROVIDE SPECIAL HEALTH, EDUCATION, AND OTHER SOCIAL BENEFITS EXCLUSIVELY FOR NATIVE AMERICANS. FOR OUR PURPOSE WE NOTE THAT THE COURTS HAVE ALSO UPHELD BUSINESS AND EMPLOYMENT PREFERENCES ON THE PREMISE THAT WE ARE NOT DEALING WITH THE INDIANS, HAWAIIANS AND ALASKANS AS A RACIAL GROUP BUT AS

MEMBERS OF A POLITICAL CLASS.

THE PROPOSALS WE WILL BE EXAMINING THIS MORNING ARE BASED ON THESE ECONOMIC, LEGAL AND SOCIAL PREMISES. MOST IMPORTANTLY, HOWEVER, WE ARE SIMPLY LOOKING FOR WAYS TO HELP OUR NATION'S FIRST CITIZENS IN WAYS THAT ARE FAIR AND EFFECTIVE. ON THAT NOTE I WOULD LIKE TO BEGIN THE HEARING BY WELCOMING THE FIRST NATIVE HAWAIIAN GOVERNOR FROM THE STATE OF HAWAI'I, GOVERNOR JOHN WAIHE'E.

PREPARED STATEMENT OF JOHN D. WAIHEE, III
GOVERNOR OF THE STATE OF HAWAII

Mr. Chairman, Members of the Senate Select Committee on Indian Affairs, I am John Waihee, Governor of the State of Hawaii.

Thank you, Mr. Chairman, for your invitation to present my views on this legislative proposal. It isn't often that I have the opportunity to personally testify before Congress. Duties and distance will prevent this from being a routine activity. Therefore, I am honored and pleased that the circumstances of the NGA winter meeting gave me this opportunity to share my thoughts with you on this very auspicious and important subject.

The proposal before you that I have the most interest in is the 5% incentive payment for prime contractors who give subcontracts to Indian or Native Hawaiian businesses. This measure is auspicious because it comes at a critical juncture in the economic evolution of the Native Hawaiian community.

Gentlemen, as members of this Committee, you have heard numerous negative statistics, social and economic, about Native Hawaiians. Other testifiers today will provide even more evidence so I shall not belabor the point. It is sufficient to point out, I believe, that in a state that enjoys an employment rate of over 96%, Hawaiians have the highest unemployment rate, the largest percentage of so-called low-status jobs, and one of the smallest

percentages of management jobs. In an economy characterized by small businesses, only about 7% of all minority-owned businesses are owned by Hawaiians and only one-half of one percent are large enough to have paid employees. For those of you who may question the impact on the economy of the state as a whole, Hawaiians make up a full 18% of the population.

Juxtaposed on these discouraging facts are a few small, but significant signs of improvement. For examples: On the island of Molokai, with a predominantly Hawaiian population of 6,000, and among the highest unemployment rates in the state, 19 people are enrolled in a 12-week entrepreneurial-training course. Hawaiian organizations such as Alu Like and the Office of Hawaiian Affairs have self-identified economic development and its companion issue -- education -- as key ingredients for the self-sufficiency of the Hawaiian people. In the SBA 8(A) program, there are 3 certified Hawaiian businesses. Five years ago, there were none.

What these encouraging signs indicate is that there are Hawaiians who are striving hard against the barriers of capital, culture and perception to provide for themselves and the future of their children. The questions before us are: 1) What are we doing -- both federal and state government -- to encourage and assist Native Americans in achieving self-sufficiency and 2) Why should we?

Gentlemen, the "why" is simple. For the Federal government, there is a clear and convincing trust responsibility to all Native Americans as peoples. For both the State and the Federal government, there is a pragmatic reason: The social costs of unemployment and lack of economic self-sufficiency is extremely expensive, both in monetary terms, as well as in the loss of human potential.

As for the "what to do" part of the question, the proposal you are considering today takes an important step. An incentive to prime contractors to subcontract to Indian and Native Hawaiian businesses will provide a creative means of short-circuiting a number of structural barriers. Barriers such as lack of sufficient financing to guarantee payroll, lack of experience on government procurement contracts, lack of experience as businesses, inability to secure bonding. These are all reasons cited by government procurement officers.

An incentive to subcontract, which would be both a matter of public policy as well as a purely business incentive, would short-circuit these structural barriers. If administered carefully and with proper support at the local level, this program has the potential of assisting Native Americans in "graduating" to the level of prime contractor in the public and private sectors.

To this end, I want to assure this Committee that the question of "what to do" applies to the state as well. You can provide the entré to an important source of capital, jobs, and experience. Federal procurement dollars for Hawaii amounted to $672 million in 1985. And by doing so, you can help break down the structural barriers that dampen the will of a people.

As a state, Hawaii will support these efforts by coordinating and targeting our procurement assistance, small business assistance, and loan programs through the Departments of Business and Economic Development, and Hawaiian Home Lands. Whenever possible, we will combine these efforts with OHA, Alu Like, the Hawaiian Business/Professional Association and other organizations to ensure appropriate business and technical assistance.

Mr. Chairman, members of the Committee, I believe this is a unique opportunity for the State and Federal governments to combine and leverage our resources for a common good. Let's work together and take advantage of it.

PREPARED STATEMENT OF CONRAD EDWARDS, EXECUTIVE DIRECTOR,
COUNCIL FOR TRIBAL EMPLOYMENT RIGHTS, SEATTLE, WA

On behalf of the Council for Tribal employment Rights, and the 107 Indian tribes and Alaska Native organizations we represent I appreciate this opportunity to testify before this Committee on the important issue of tribal economic development and the role that the SBA 8(a) program can play in that development. My name is Conrad Edwards, Executive Director of the Council for Tribal Employment Rights (CTER). With me are Jacob Coin, CTER's director of business activity and Daniel S. Press, CTER's General Counsel. CTER is a national organization composed of the 107 tribes and Alaska organizations that have established tribal employment rights offices (TEROs). The TEROs use the sovereign authority of the tribe, coupled with laws giving special employment rights to Indians and minorities, such as Indian preference, the Buy-Indian Act and 8(a), to promote Indian employment and economic development on their reservations. The TEROs have been extremely successful in promoting the utilization of Indian workers and companies by reservation employers, using Indian preference as the primary tool. All too often in the past an employer would come onto the reservation to build HUD houses, BIA schools, IHS hospitals, etc., and employ only a token number of Indians. As

a result of the TEROs, Indian employment on such projects now run in the 70-95% range.

CTER has also sought to assist tribes and individual Indians use the 8(a) program to create new Indian businesses on the reservation, particularly those providing goods or services to the Department of Defense. We assisted SBA and DoD to develop a Memorandum of Agreement on Indians which was designed to increase the number of Indian 8(a) companies and the number of DoD 8(a) procurement opportunities going to Indians. We also assisted those agencies put on workshops throughout Indian country to inform the Indian community about the initiative. Unfortunately, we have also watched as over the past five years, this initiative produce very little of substance for Indian economic development.

We therefore believe something else needs to be done to make the 8(a) program work for Indians. We think this is critical in fact because when the 8 (a) program does work properly, it produces spectacular successes that offer great hope for Indian economic development. In fact successful use of the 8(a) program by tribally-owned enterprises represent the brightest stars in reservation based Indian economic development. It is an exciting thought to realize that there is nothing unique about these success stories and that by making some minor changes in the 8(a) law, Congress is in the position to ensure that these success stories are replicated on Indian reservations throughout the country. As the witnesses

from these successful tribes will tell the Committee the accomplishments of their 8(a) businesses have included:

* Helping several hundred tribal members on each of their reservation to go from welfare recipients to skilled employees working in the private sector.

* Provide on-the-job training for Indian managers, thereby creating the new generation of Indian entrepreneurs.

* Enable tribes to become full participants in the private sector and thereby create an environment for business development on their reservations.

* Produce a quality product for the Department of Defense, thereby contributing to our national security.

* Produce all of these benefits without any Federal budget outlays and without causing any other costs or negative impacts.

In sum, we have some models for success. We ask the Committee to help open the door so other tribes can follow these models.

The key to achieving these objectives is to recognize first, that tribally-owned companies must take the lead in this process, and second, that the 8(a) program needs some minor revisions to make it maximumly usable by tribally-owned companies. There are also great opportunities for tribes, Indians, and Hawaiian Natives to become subcontractors to large federal contractors such as defense prime companies. By providing some minor incentives to the prime contractors, these opportunities also can be realized.

A. **The Need for Tribally-owned Enterprises to Take the Lead in Indian Economic Development**

Individual Indian-owned businesses are important to reservation economic development. But it is difficult for those business to survive and grow in an environment in which there is little entrepreneurial activity or history. As a result there is a need for one or a few large companies to create a critical mass for business development. These large companies can train the future managers and entrepreneurs, can create a business environment on the reservation, and can provide a large number of jobs quickly to address the 50% to 80% unemployment rates that exist on reservations.

Given the need for large companies, only tribal governments are in a position to establish Indian-owned companies of this kind on reservations. Only they have access to the large amount of capital, upfront development funds, and other resources needed to get such an operation started. It is not coincidental that each of the successes mentioned above is tribally-owned enterprises.

B. **The Need for Revisions in the 8(a) Program to Respond to the Unique Aspects of Tribally-owned Businesses**

The second fact that is not coincidental is that each of the large tribally-owned success stories mentioned above are 8(a) companies performing contracts with the Department of Defense. They show that the 8(a) program has the ability to be

an important tool for promoting Indian economic development. But the reason there are only a handful of tribal 8(a) companies is that the 8(a) program is not presently structured to deal with the unique aspects of tribally-owned enterprises. As a result, only those few tribes that had the persistence, extensive resources and in a few cases, the fortune to catch SBA when it had relaxed its requirements, have been able to successfully use the 8(a) program. We therefore ask the Committee to use its position to advocate within the Congress for changes in the 8(a) program so that program can fulfill its great potential for Indian Tribes. The specific changes needed are neither large in number, drastic nor pose any threat to the integrity of the 8(a) program. But they will be very effective in promoting replication of the successful ventures you will be hearing about this morning. Each of the needed changes is discussed briefly below and then in greater detail in the attached memorandum.

1. <u>Allowing a Tribe to Have More than One 8(a) Company</u>

SBA permits each individual to have only one 8(a) certified company in his or her lifetime. This makes sense for an individual but not for a tribe. Yet under present 8(a) policy, a tribe is permitted to have only one 8(a) company in its lifetime, which means forever for a tribe, which exists in perpetuity. This has discouraged tribes from applying for 8(a) certification for a particular tribal company because they are worried that if they use up their 8(a) eligibility on that one

company, there will be a greater need for it in the future for a different tribal venture, but it will no longer be available.

Application of the once in a lifetime rule to tribes also severely limits its value as a tool for addressing the unemployment and other economic problems on reservation, regardless of how severe those problems remain even after that tribal government has had one 8(a) company. One of the reasons for the once in a lifetime rule is to prevent an individual from getting rich off the 8(a) program. But allowing a tribe to have more than one 8(a) company promotes economic development, Indian employment and entrepreneurial capability while not enriching any individual or producing any other negative result. We therefore request that the 8(a) law be changed to permit a tribe to have as many 8(a) companies as it can set up so long as each is on the reservation and so long as the tribe can demonstrate continued high unemployment, poverty and other indices of economic need.

Further, for purposes of the SBA size standard, each 8(a) company should be treated as a separate entity rather than adding together all tribal employees to determine when the SBA maximum size has been reached. The only limitation would be that a tribe could not put the same business back into the 8(a) program after it has graduated, just by changing its legal structure. If a tribe had an 8(a) company making widgets that has graduated, that tribe could not set up another 8 (a) widget company. Tribal companies, like all other 8(a) companies

should be required to graduate. Therefore each tribal 8(a) company must be in a different industrial code area from the other 8(a) companies owned by that tribe. The changes recommended above will make the 8(a) program a major tool for Indian economic development while having no negative impacts on the 8(a) program, on federal procurement or on the federal budget.

Another problem caused by SBA's application of its once in a lifetime rule to tribes is that under present SBA policy, a tribal member uses up his individual or personal "once in a lifetime" eligibility by managing the tribal 8(a) company, even though he or she owns no equity in the tribal company and does not personally benefit from its profits or capital appreciation. Thus a tribal manager is put in the position of having to choose between his tribe and his personal future since by managing the tribal 8(a) venture, he or she will never be able to have an 8(a) company of his own. Again, there is no public good served by such a policy and it must be changed by statute.

2. **Tribes Should be Permitted to Joint Venture With Established Large Companies**

A second major barrier to maximum tribal use of the 8(a) program is SBA's rule prohibiting an 8(a) company from joint venturing with a large company that already has business activities in the same field as the 8(a) company. This

requirement makes sense for individually-owned 8(a) companies because it prevents large corporations from using individuals as fronts while producing no benefits for the minority community. But the policy does not make sense for tribal entities located on reservations. Two of the most successful tribal industries, Fort Peck and Devils Lake Sioux, could not be certified today because of this policy because for both of these tribal 8(a) enterprises, Brunswick is a 49% owner. Yet if one examines those tribal companies, it is clear that everyone is a winner and there are no negative aspects to them. They provide a total close to 1000 jobs on the two impoverished reservations, they train Indians to be managers and entrepreneurs, they create the critical mass for economic development discussed earlier, and they produce quality products for the Defense Department. In addition, it has helped the economy of the non-Indian community surrounding the reservation. This in turn helps to reduce the historical hostility between these communities and thereby produces additional collaborating efforts between Indians and non-Indians.

Because tribes have so little technical and business experience they need large corporations such as Brunswick to provide expertise and often to provide some of the start-up capital. To expect tribes to start up a large defense related operation and produce a quality product without such experienced help is to set them up for failure while serving no public good. Unlike companies located in urban areas, there

are no other sources of technical assistance the tribes can turn to on their remote reservations. The only realistic way for them to get such help is to provide an equity share to large companies already engaged in such business areas. We therefore request that tribes be permitted to replicate the successful Brunswick models by allowing tribes to receive 8(a) contracts in joint ventures with large corporations so long as the tribe owns 51% or more of the venture, the facility is located on the reservation, most of the employees are Indian, and the project generally is for the benefit of the tribe and its members as determined by SBA.

3. **Tribally-owned Companies Should be Exempted from the Competition Rule and Should be Allowed a Longer Participation Period in the 8(a) Program**

There is presently a bill moving through the Congress that would restructure the 8(a) program in order to prevent some of the abuses that have received so much attention lately. Again, some of these changes, while appropriate for individual 8(a) companies do not make sense for tribally-owned companies located on reservations. The provision limiting a company's next 8(a) contract to one no bigger than 150% of its previous 8(a) contract will severely limit a tribal 8(a) company's ability to grow quickly enough to have the impact on employment and to create the critical mass that is so badly needed. The requirement that tribe's have to compete with other 8(a) companies for 8(a) contracts over $2 million would

have a similar effect. Lastly, tribal companies will take longer to reach the maturity needed to graduate from the 8(a) program. Since so much public benefits are flowing from the tribally owned company, it should be permitted to stay in the 8(a) program three to four years longer than individual companies.

4. **There is a Need for Increased Capability on Indian Issues in SBA**

One of the reasons tribes have had such a difficult time using the 8(a) program is that within SBA there are neither any Indian employees nor even any non-Indians with knowledge about the unique legal and other aspects of tribes, Indian and reservations. As a result, tribes are unable to get effective help in preparing 8(a) applications, their 8(a) applications get held up for long periods of time because when bureaucrats do not understand something, their response is to put the application on the shelf, and at times tribal applications have been incorrectly rejected for reasons that reflect ignorance about tribal governments. For example, tribes have been authorized by Congress to establish federally chartered corporations to carry out business activity on behalf of the tribe. Yet, SBA has refused to recognize these corporations and has required tribes to set up state chartered corporations, which violate the tribe's sovereign status.

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Nor is there anyone in SBA who is out there encouraging tribes to participate in the program. To the contrary the experience has been that when tribal officials walk into an SBA office, they are generally treated poorly and discouraged from using the 8(a) program. There is therefore a need to get Indian expertise into the SBA offices. We are therefore asking for an Indian desk of sorts at SBA headquarters and at each of the regional offices located in Indian country. But to be effective, these Indian desks have to play more than just an informational role. They must be in the line of authority, with the power to process applications from Indians, as well as to help Indians fill out applications and to inform them about the benefits of the program. The changes in the 8(a) law we are requesting will not produce the desired benefits unless there are officials in SBA capable and willing to help put them to work. Some form of Indian desk will provide this essential element.

5. Government Contractors Involved in Manufacturing Should be Given Incentives to Use Indian Subcontractors

Another way for Indians to participate in federal procurement is to subcontract with those companies that are recipients of federal prime contracts, such as large defense contractors. This is particularly useful to individual Indian owned businesses, since the size of the subcontracts can be small and they can obtain technical support from the prime

contractor. However, prime contractors often face additional expenses when subcontracting with Indian firms, particularly those on reservations where the need for economic development is greatest. The distances add to transportation costs. In addition, the primes must often provide technical assistance in quality control, management and other areas because there are no other sources of such assistance available locally.

In other legislation (Section 1207 of P.L. 99-666), Congress provided that the Defense Department may spend up to 10% beyond fair market value to achieve its goal of a 5% minority participation in defense contracting. We are asking for a similar but less ambitious commitment for Indians. It would provide that if a government prime contractor subcontracted with an Indian company located on a reservation, or with a Hawaiian Native company located in Hawaii, the prime can receive an additional amount from the government, equal to 5% of the price of the subcontract to the Indian or Hawaiian Native firm. This 5% bonus would help to defray the prime's additional costs and thereby remove the present disincentive to subcontracting with reservation and Hawaiian Native firms. There would be a dollar cap on this tool to insure the government spent no more than $15 million a year for such incentives. If all of this money were expended, it would mean there was $300 million in federal subcontracts going to Indians and Hawaiian Natives. The $15 million is a small price to pay

for the number of jobs and businesses that would be created by the $300 million in subcontract activity.

CONCLUSION

We firmly believe that the changes requested above will quickly and effectively increase Indian and Native Hawaiian economic activity, while having virtually no negative impact on the budget. In fact it will likely have a positive impact since it will take hundreds of Indians off welfare and make them productive participants in the private sector. Again, we thank the Committee for this opportunity to testify and express our deep gratitude to you, Mr. Chairman, for the deep commitment and interest you have exhibited towards Indian people in your capacity as Chairman of the Committee.

The Need for Changes in the 8(a) Program to Address the Unique Problems of Tribal-owned Disadvantaged Businesses

Indian tribal governments have a unique status in this country. Among the responsibilities given them by Congress is to actively develop entrepreneurship and thus economic development on the reservations. To this end, several tribes have formed business enterprises owned by the tribe, rather than an individual, to better develop the reservation economy.

Several years ago Congress recognized the unique nature of these tribal-owned enterprises and amended the Small Business Act to allow Indian tribes to participate in the 8(a) program. Past experience has shown that participation in the 8(a) program by a tribal company has aided economic development on the reservations. However, only a few tribal enterprises have been able to take full advantage of the 8(a) program due to several impediments contained in the program. These impediments must be eliminated so that tribes may make maximum use of the program and thus increase economic opportunity on the reservation. In addition, several provisions included in the Senate and House 8(a) reform bills (S.1993 and H.R.1807) would seriously impact tribal enterprise participation in the program and therefore need modification.

The tribal enterprises would like to work with Congress in obtaining the following modifications in the 8(a) reform package:

- An exemption for Indian tribes from the requirement to compete on procurements over a specific amount.
- An increase in the number of years a business may participate in the program.
- A modification to permit joint ventures that include a non-8(a) enterprise to receive 8(a) contracts.
- An elimination of the prohibition on receiving a contract that is more than 150% larger than a previous contract.

The tribal enterprises would like to work with Congress in including the following provisions in the minority business development reform package:

- An exemption for tribal enterprises from the "once in a life time" rule and a modification of the "disadvantaged individual" definition for the manager of the tribal enterprise.
- A provision creating an Indian desk in the SBA to govern the unique aspects of tribal enterprises.
- A provision to give prime contractors 5% of the contract price for subcontracting with tribal enterprises as an incentive for subcontracting.

Concept Paper

The Need for Special Provisions in S.1993 to Address the Unique Status of Indian Tribes

Indian tribal governments are unique entities in that Congress has asked them not only to be the governments of their reservations but to take the lead in developing businesses on the reservation. (25 U.S.C. 477.) Congress has also mandated that the Defense Department substantially increase defense contracting and subcontracting with tribal and other Indian businesses.

The key to meeting both of these mandates is the maximum use of the 8(a) program by tribes. Because of the poverty and the trust status of land on reservations, only tribally-owned enterprises have the access to capital and the start-up costs needed to get into defense 8(a) contracting in a significant way. Such successful tribal ventures as Laguna Industries in New Mexico, A&S Industries in Montana and Devils Lake Sioux in South Dakota show how effective the 8(a)-tribal connection can be. These three enterprises, each 8(a) and engaged in defense contracting, are the three largest employers anywhere in Indian country. These companies have been extremely successful in themselves. But in addition, they show that by allowing a tribal 8(a) company to blaze the entrepreneurial trail on the reservation, it opens up opportunities for individual Indian-owned businesses that the tribal operation spawns.

However, as presently structured, the 8(a) program is difficult for tribes to use because it is not designed to

respond to the unique aspects of tribally-owned businesses, the only governmental entities eligible for 8(a). Several years ago Congress amended the Small Business Act to make it clear that tribes were eligible for 8(a) certification. The tribal community is now requesting, through S 1993, certain modifications in the way tribal enterprises are treated under the 8(a) program so that tribes can achieve the business objectives Congress has set for them.

We request that for tribally-owned businesses, S.1993 provide:

1. An exemption from the competition rule, similar to the exemption provided by the House.
2. An exemption from the "once in a lifetime" rule and clarification of the "disadvantaged individual" rule as applied to tribes.
3. Permission to use joint ventures on 8(a) contracts.
4. A lengthened participation term.
5. The creation of an SBA Indian desk at the national and regional levels.
6. A 5% incentive for defense contractors that use Indian subcontractors.

These proposed changes would apply only to tribally-owned enterprises, in which the tribe as a whole, rather than any private individual, benefits from the enterprise. Indian individuals under the 8(a) program would be treated no differently from other disadvantaged persons.

The specific changes requested are as follows:

1. Competition

The Capital Ownership Development Reform Act bill passed by the House specifically exempted Indian tribes from the requirement that there be competition on all procurements over $2 million for manufacturing and $1 million for all other kinds of contracts. A similar exemption is needed in the Senate bill. Tribally-owned enterprises have the task of creating substantial employment opportunities and creating the critical mass for entrepreneurship on the reservation. As a result they tend to start bigger and require larger contracts. For example, in 1985, Laguna Industries received a $10.5 million 8(a) contract from DoD soon after it began operations. (It was able to handle it because it had technical assistance from a large corporation under a management agreement.) But if Laguna had to go to the cost and time of competing for that contract at a time when the company was first getting started, it likely never would have gotten off of the ground. We therefore request that the Senate follow the House's lead in exempting tribes from the competition requirement. We also request an exemption for tribes from the prohibition against a company receiving a contract that is more than 150% larger than its previous 8(a) contract. This will inhibit the ability of tribal 8(a) companies to grow as they develop capability and competence.

2. The Once in a Lifetime Rule

The Small Business Act provides that a socially and economically disadvantaged individual can only organize an 8(a) enterprise once in his or her lifetime. SBA has accepted the fact that such a rule does not make sense for an Indian tribe, which exists in perpetuity and where no one individual benefits from the 8(a) company. SBA has slowly been moving toward a position under which there would be no limit on the number of 8(a) companies a tribe could have, so long as each company is in a different set of SIC code areas. This is consistent with the Congressional desire for tribes to take the lead in reservation economic development. But because SBA has been working on these matter for over six years and still has not promulgated any policy, the tribes request that this position be embodied in legislation.

While recognizing tribes' right to have more than one 8(a) company, SBA has tried to define the "disadvantaged individual" for each such company as the individual tribal member who heads that company, thereby prohibiting him or her from managing a future tribal 8(a) company or an 8(a) company of his own. Given the severe shortage of qualified managers on reservations, this policy handicaps tribes in their effort to create business opportunities. It also penalizes the individual who agrees to work for his tribal company since he has no ownership rights in the tribal company yet uses up his 8(a) eligibility. Again, no policy or benefit to the 8(a)

program is served by this restriction. The tribes therefore request language in the bill providing that for tribally owned 8(a) companies, there is no disadvantaged individual.

3. Joint Ventures

S.1993 permits an 8(a) company to joint venture with a non-8(a) eligible company, but only on non-8(a) contracts. A&S Industries, one of the most successful tribally owned 8(a) businesses is a joint venture between the Fort Peck Tribes and Brunswick. It employs close to 500 persons, making it the largest private employer on a reservation anywhere in the country. Brunswick provided the technical and managerial expertise that the Tribe lacked. It has produced a win-win situation for all parties. The Tribe gets employment, a large enterprise as a model for the reservation, and training in management skills so that it can eventually take over control of the entire operation. Brunswick makes a profit through its 49% ownership, DoD gets a quality product, and SBA get a substantial tribal 8(a) utilizer. If the 8(a) program is to have an immediate and substantial impact on reservations, there must be authority to replicate the Brunswick model because large companies are the best, if not the only source, of the technical capability tribes need to get started. The tribes therefore request that the joint venture provision of S.1993 be modified to permit tribal 8(a) companies to joint venture on 8(a) contracts with non-8(a) eligible companies, so long as the tribe is the majority owner and the facility is located on the reservation.

4. Participation Period

Because of the special burdens they must carry, tribal 8(a) companies will need a longer participation period than the eight years provided in S.1993. It takes much longer for a tribal company to get up and running. It is more difficult to raise the capital, there is a need to train tribal members for the jobs at the facility, and a need to educate the tribal membership about their rights and responsibilities as the owners of a private sector company. In addition, in light of Congress' desire to see increased DoD contracting on reservations, this provision would further this goal by permitting tribal companies to participate in the 8(a) program for a longer period than that provided other companies.

5. Need for an Indian Desk

In order to fairly and expeditiously process tribal applications, SBA needs to have a full understanding of the unique aspects of tribal companies, such as the valid status of the federally chartered tribal corporations, tribes' authority to charter corporations just as states do, the trust status of tribal land, etc. Presently, SBA has very little expertise in this area, which has made it very frustrating for Indian firms to get their applications processed fairly and in a timely manner. The tribes therefore request that S.1993 instruct SBA to establish an Indian desk at its Headquarters office and at each of the regional offices located in Indian country, with the authority to process Indian 8(a) applications as well as to

advise the rest of the agency on Indian concerns as they arise. Indian desks that have no power but simply advise and advocate tend to be of little value. But by giving the Indian desk the power to process Indian applications, it will have a clear role as well as insuring that Indian applications are processed knowledgeably.

6. Incentives for Subcontracting with Tribally-owned Firms

Indian and Hawaiian Native owned firms have also had difficulty obtaining subcontracts in the manufacturing sector from government prime contractors because of their lack of technical expertise and geographic isolation. The tribes need the primes to provide this technical assistance, but the latter are unwilling to do so because DoD will not reimburse them for it. We are, therefore, requesting that the subcontracting portion of the bill include a provision requiring federal agencies to pay an additional 5% of the price of the subcontract to any prime that subcontracts with a tribal or Indian owned firm located on or near a reservation or a Hawaiian Native owned firm located in the Hawaiian Island.

CONCLUSION

The recommendations set out above will enable tribal companies to participate fully in the 8(a) program and would remove the barriers they now suffer because of their unique status. The provisions also should enable the 8(a) program to become the leader in promoting economic development on Indian reservations.

Senate Select Committee on Indian Affairs
Testimony of Steven L.A. Stallings
UIDA President

Barriers to Native American Participation
in Government Procurement Contracting

As of September 1987, approximately 213 8(a)-certified businesses were Indian or tribally-owned. Several interesting facts emerge from a review of the listing of these Indian-owned 8(a) firms supplied to the committee for its April 24, 1987 hearing. More than one-half list their primary business activity as "general contractor," "construction," "builder" or similar classification and are thus inclined to be highly localized in their commercial activity. 8(a) support is a two-edge sword, given that when these firms' 8(a) participation terms expire (as some will in the next few years), they will face the likelihood of having to compete to retain those contracts with other non-8(a) businesses. Most of the 213 have not recieved one federal contract, most are not tribal and a few large contracts awarded to Indians have skewed the results. Current SBA eligibility criteria for tribal participation in 8(a) includes:

- Disadvantaged status is determined by measuring income levels, number in poverty, and unemployment.
- Valuation test of non-trust assets.
- Manager must be an Indian and must be the key decision maker.
- Board members must submit personal financial and personal history statements.
- Applications recieve special handling.

Of special concern to the tribes operating tribally-owned businesses (as distinguished from those owned by individual tribal members) is an internal SBA interpretation of "socially and economically disadvantaged", which limits joint ventures and having non-Indian managers as a competitive strategy.

The Small Business Administration (SBA) reported for the fiscal year ended 9/30/87 that $154 million in contracts awarded in 404 different contracts to 213 firms. Number of firms in each region are:

Region	# Firms
1	3
2	7
3	16
4	21
5	19
6	35
7	11
8	37
9	31
10	33
Total	213

Our recommendations on how to eliminate barriers to Native American participation in government procurement contracting are as follows:

A. The BIA should be the only source of "Indian" certification (must meet new "51% buy Indian" requirement). Buy Indian rules should apply to SBA 8(a) as a pre-eligibility determination for participation with SBA 8(a).

B. Limit financial information requirements to the business' Board of Directors and use overall tribal financial statements for determination of 8(a) eligibility.

C. Assume 2 times 7 years as the maximum FPPT or 14 years (10+4).

D. Through the use of joint ventures in "same or similar lines of business" with a required divertiture agreement, allow for Indian 8(a) applications that expand Indian goods and services availability, capability and capital resources.

E. Tribes should only be required to maintain management control rather than management repsonsibility. Allow for adequate training periods of tribal members who will become future CEO's and COO's of the 8(a) concern.

F. The Department of Defense (DOD) should set aside ½ of 1% of its budget as a target as follows:

1. count new contracts only,

2. establish specific set asides (similar to labor surplus areas) and/or

3. Use 8(a) method with minimum goal (½ of 1%)

G. SBA/DOD MOU improvements:

1. progress cited by DOD predates current accomplishments, SBA must be required to seek and obtain DOD contracts for Indian enterprises.
2. DOD must implement a procurement process to target specific contracts to Indians by use of a 5% incentive payment.

H. Streamline the 8(a) application process for Indians by:

1. establishing an Indian desk in SBA,
2. assuming eligibility by virtue of BIA certification, and
3. assuming contract support exits.

I. Establish an American Indian Center for Business Development to initiate research, compile economic data, and serve as an information resource for Tribal governments in the field of American Indian business development; assess training needs, create effective training models, implement training programs, and develop longitudinal evaluation data on financial assistance-training effectiveness in the field of American Indian Business Development, including entrepreneurship; and operate a technical assistance clearinghouse for American Indian economic development to identify cost-effective delivery systems, determine effective technical assistance resources, and provide Tribal Governments and American Indian entrepreneurs with relevant technical assistance/information. The Center will perform Socio-Economic-Cultural impact assessments to ensure economic development initiatives are sensitive to Tribal values. This American Indian National Center should be awarded contracts from the Bureau of Indian Affairs in five year increments to allow for longitudinal

data collection and research. The Center will operate with independence from the Bureau of Indian Affairs by provision of a National Advisory Council for American Indian Economic Development to provide policy and program direction and oversight. The Council will be comprised primarily of American Indian expertise in economic development, selected by the President and approved jointly the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.

THE CASE FOR A NATIONAL CENTER FOR AMERICAN INDIAN BUSINESS AND ECONOMIC DEVELOPMENT

I. Ageless Problem: Inadequate Business and Economic Development On Indian Reservations

Rapid change epitomizes so much of our American culture and technology! In Indian Country, however, many conditions woefully seldom change.

A time-enduring problem is that most Indian communities are characterized by low economic activity with few Indian business owners and operators. The lack of meaningful Indian participation in business development contributes directly to high unemployment, underemployment, and other socio-economic and educational problems on and off reservations.

Myriad factors contribute to this perennial problem. The matrix in Figure 1 on the next page highlights 16 social, educational, economic, and governance variables that Indian tribes must address in order to promote business and economic progress on their reservations. To date, few reservations have developed all of these economic development success factors. Take a close look at three major issues/problems that are singularly economic in nature.

Figure 1

AMERICAN INDIAN RESERVATION
ECONOMIC EVALUATION MATRIX
ABUNDANT LABOR FORCE
LOW-COST LABOR
GOOD WORK ETHIC
LOW ABSENTEEISM RATE
AVAILABLE NATURAL RESOURCES
AVAILABLE CAPITAL RESOURCES
PROXIMITY TO MARKET AREAS
SKILLED LABOR FORCE
POLITICAL STABILITY ON RESERVATION
ADEQUATE ROADS OR RAIL TRANSPORTATION
SUITABLE TRANSPORTATION EQUIPMENT
ADEQUATE UTILITY SERVICES
MARKETABLE PRODUCT
LOW INCIDENCE OF ALCOHOLISM
LOW INCIDENCE OF DRUG ABUSE
HIGH SCHOOL EDUCATION OR BETTER

A. Too Few Indian Businesses. There are not enough Indian-owned enterprises providing jobs and income to Indians. Also, start-up and existing businesses need management, technical support, and financial resources to survive and expand. According to the 1982 Survey of Minority-owned Enterprises, the number and gross receipts of American Indian businesses are behind what they are for other minority groups on a per capita basis. Figure 2, below highlights this discrepancy.

Figure 2

Firms Owned By Hispanics Blacks, Asians, Other Groups, and American Indians: 1982

Minority	Firms (Number)	Receipts
Hispanics	248,141	$14,976,337 billion
Blacks	339,239	12,443,572 billion
Asians and Other Groups	240,799	17,265,399 billion
American Indians/Alaskans	14,843	646,749 million
TOTAL	843,022	45,332,057 billion

The above data indicate that American Indian ownership capita represents 1.8% and gross receipts represents 1.4% of that for other minority businesses in the United States. Therefore, to be on parity with other minority firms on a per capita basis, a 4000% increase in Indian business ownership is needed. The future impact is ominous as American Indian business ownership has increased only 34.8% from 1972 to 1982 compared with a 500% increase for businesses owned by Asian and other minority groups, for example.

Indian firms are, however, engaged (but under-represented) in all industries including: construction; manufacturing; transportation and utilities; wholesale trade; retail trade; finance; insurance; real estate; and selected human services. Figure 3 on the next page depicts the percentages of these major business areas, based on the most recent data from the U.S. Bureau of Census. Existing Indian business firms can be a greater source of supplies and services, as well as employment opportunities for Indian communities.

B. Economic Blight on Indian Reservations. North American Indian communities are characterized by stagnant economies, inadequate human services, and underdeveloped capabilities to promote sustained business development on their own. Typical indicators of economic stagnation include:

- high unemployment and low labor force participation rates;
- high proportions of unskilled laborers in the labor force;
- limited managerial talents for directing local developing enterprises;
- limited local ownership and operation of entrepreneurial ventures;
- insufficient investment capital to support business development projects; and
- lack of competence in ways of obtaining private sector technical and financial involvement.

Figure 3

Current Industry Areas for American Indian and Native Alaskan Firms
22% RETAIL TRADE
14% CONSTRUCTION
4% MANUFACTURING
3% NOT CLASSIFIED
3% TRANSPORTATION & UTILITIES
1% WHOLESALE TRADE
29% SERVICES
24% OTHER INDUSTRIES

In contrast to the above indicators, Indian tribes have an impressive array of natural and human resources. Figure 4 on the next page summarizes some of those natural resources - on which current and future business development can capitalize.

What Figure 4 depicts is that the Bureau of Indian Affairs holds millions of acres of land in trust for Indian tribes and Indian individuals. In turn, tribes and individuals have significant resource holdings in forest land, farm and ranch lands, minerals and energy resources, water, fisheries and aquaculture, and recreational resources. Where physical resources are not abundant, the human potential of the Indian population is a resource.

A basic question is why such a small number of people with significant resource holdings continues to be so poor? What remains a mystery is the path through these obstacles to successful reservation business development. Very little is done to develop a self-sustaining private sector on Indian reservations which is capable of contributing through taxes, to the social, cultural, or public sector goals of Indian tribes.

Figure 4

Indian Tribes Possess 51.8 Million Acres of Land
• 5.3 MILLION ACRES OF COMMERCIAL FOREST ON INDIAN LAND
• 2.5 MILLION ACRES IN CROP AREA
• 44 MILLION ACRES IN RANGE & GRAZING LAND
• 4% OF U.S. OIL & GAS RESERVES
• 40% OF U.S. URANIUM DEPOSITS
• 30% OF KNOWN WESTERN COAL RESERVES
• $1.5 BILLION IN ROYALTY PAYMENTS HELD IN TRUST

C. Capitalization Obstacles for Indian Businesses. The overriding contributors to business development problems on Indian reservations are the lack of capital and the historic inability of reservation projects and privately-owned enterprises to access financial markets. The "capital" problems that reservations face essentially are several and include:

- o limited access to capital for business development;
- o the trust status of Indian reservation property and jurisdictional impediments to securing credit for business development;
- o the perceived, and often superficial, impediments caused by tribal instability and inexperienced management; and
- o few sources of long-term business development financing.

All of the above must be overcome to foster Indian business and economic progress.

Several current indicators suggest that congress is more interested than ever before in helping Indian businesses overcome their capitalization obstacles. Senate Bill 721, the Indian Development Finance Corporation Act, is designed to at least partially, fill the capital gap. Simultaneously, Senate Bill 788, the Indian Economic Development Act, is receiving attention as an additional program to create a conducive environment for attracting private sector industry to reservations. Finally, the reauthorization and amendment of Indian Finance Act and Buy Indian Act are targeted on improving current financing programs as well as increasing business opportunities for Indians and tribes.

II. A Proven Approach to this Problem

Previous attempts to promote tribal and private sector business development on Indian reservations have invariably involved Federal agencies providing grants, contracts, and loans to tribes, tribal organizations, and individual businesses. The intent of these efforts was to improve Indian economic independence and stimulate fuller employment on or near Indian reservations. Diverse Federal programs, such as the following, have taken aim at the target of a more thriving Indian business development:

- BIA - economic grant initiative, direct loan and loan guaranty program, interest subsidy program
- Economic Development Administration
- Administration for Native Americans
- Housing and Urban Development Department
- Department of Justice
- Department of Education, Indian Vocational Education Programs
- Department of Labor
- Department of Agriculture
- Department of Commerce
- Department of Transportation
- Small Business Administration
- Minority Business Development Agency (MBDA)

As one of the more successful examples of the spray of arrows that such programs have scattered around the target, MBDA designed its American Indian Programs (AIP) to maximize the use of private, government, and Indian resources for business development in

Indian communities. The program uses two delivery mechanisms: (1) American Indian Business Consultants (AIBC) providing specialized consultant services; and (2) the Indian Business Development Centers to achieve economic self-determination for Indians through:

- traditional business principles;
- long-range business and economic planning;
- management and technical assistance programs;
- training in business management; and
- the development of new sources of capital.

MBDA's Indian program has experienced some success, as have the efforts of other Federal agencies. However, there is tremendous room for improvement for many reasons. First, Indians who are committed to the goal of economic, social, educational/ training, and governance self-sufficiency want to be less dependent on Federal money. Second, although MBDA's thrust for off-reservation businesses has been highly desirable, a focus on reservation enterprises - private sector primarily and tribal secondarily - must occur simultaneously. Third, the focus needs to change from economic planning and business feasibility studies to actual business development and job creation for tribal members. Fourth, competency building through consultation and technical assistance, by successful business and employment experts, needs to be delivered systematically to the prospective and current owners of Indian enterprises. Fifth, that competency building assistance has to be tailored to the local strengths, needs, and values of Indians.

The United Indian Development Association (UIDA) proposes a self-supporting National Center for American Indian Business and Economic Development implementing each of the five improvements listed above. Fiscally, the Center will not depend on any single Federal or State agency, therefore avoiding the frequent vicissitudes, contrasting priorities, and whims of off-reservation government. This National Center will concentrate on (1) financial and management training and consulting for Indian enterprises and private sector ventures on Indian reservations; (2) services to help Indian enterprises market their products and services and obtain contracts; (3) an information network for Indian business and economic development; and (4) the promotion of legislative and administrative solutions to Indian business and economic concerns.

We are convinced that the proposed National Center is highly compatible with recent philosophy of the Federal government. For example, President Reagan established the Presidential Commission on Indian Reservations Economies by Executive Order 12401 on January 14, 1983. The Commission's purposes were to identify obstacles to Indian reservation business development and to promote the development of a healthy private sector on Indian reservations.

On January 24, 1983, the President issued an American Indian policy statement which reaffirmed the government-to-government relationship of Indian tribes with the United States; expressed the primary role of tribal governments in reservation affairs; and called for special efforts to develop reservation economies. Quoting the Commission's final report:

> Without sound reservation economies, the concept of self-government has little meaning. In the past, despite, or perhaps because of its good intentions, the federal government has been one of the major obstacles to Indian economic progress. The President has committed his Administration to removing impediments to Indian economic development and to encouraging cooperative efforts among tribes, federal, state and local governments, and the private sector toward developing reservation economies.

The Commission recognized the need for business development on reservations. It also recognized the need for business planning, management, and technical assistance. In fact, it recommended the establishment of a private Indian business development center which could provide no-nonsense sources of assistance. We will establish such a center and seek to have it acclaimed as The National Center for American Indian Business and Economic Development.

III. UIDA'S Philosophy and Performance Record

The UIDA approach seeks to help Indians benefit from economic progress through business ownership; leadership in tribal enterprise management; job attainment and security; and reasonable consistent net wages. This approach is grounded on the following 10 principles:

1. There is no one best way to raise the standard of living on reservations; rather many good programs and policies are necessary to achieve the necessary improvements.

2. Well-planned business development will have a positive psychological affect on Indian communities due to the jobs, income, and tax base (community services) that contribute to economic self-sufficiency.

3. Economic development is process oriented - getting people (reservation residents) involved in this process is paramount to gaining community commitment for an enterprise.

4. Each community has different environmental constraints and opportunities (location, human and physical resources, organized government, etc.) which will determine the success rate of developmental efforts.

5. To achieve an improved standard of living, a viable reservation economy must have a mix of ownership and participation (tribal and individual), contain primary industries and secondary businesses, and be controlled by reservation residents.

6. The desire to create a venture must come from an Indian individual or tribe. The desire must not be externally imposed.

7. There must be a viable business opportunity to successfully compete in the marketplace (locally, regionally, etc).

8. A combination of Indian talent, resources, and business opportunity in a solid business plan must be coupled with competent support services that attract both private and public financing.

9. The enterprise must be within the experience range of the Indians involved.

10. The success of a business enterprise is contingent upon the personal entrepreneurship of an experienced manager - his/her encouragement leads to loyal employees and a cooperative community.

We are convinced that the problem of inadequate Indian business and economic development is difficult to solve but not insurmountable, given the proper perspective and systematic approach. During its 18-year existence, UIDA has systematically established a remarkable track record in the long distance race toward stimulating and improving Indian businesses, with its ultimate prize of fostering the self-sufficiency of Indian people, tribes, and tribal organizations.

As a national not-for-profit management consulting and training organization, we assist American Indians to achieve self-sufficiency through business and economic development. UIDA has acquired over $120 million in financing and contract opportunities for Indians while starting up 338 new businesses and creating 2,024 new jobs. This has been accomplished with a business failure rate of less than 5%--a remarkable record when compared to national trends!

Our track record is based on more than hard work, ethical practices, and intense commitment to the attributes, limitations, needs, and values of Indian tribes and individuals. Additional, but equally important, ingredients are UIDA's: (1) intellectual understanding of the multifaceted problem of Indian economic and business development; and (2) philosophical framework for how that problem should be addressed. We now seek to extend these accomplishments, in the interest of Indian businesses in specific and Indian Country in general, by founding the National Center

that will help: (1) more Indian business enterprises get started and expanded; (2) Indian enterprises procure more contracts for their goods and services; and (3) more Indians get jobs.

IV. The Proposed National Center

The following components will comprise UIDA's National Center:

- Financial and Management Technical Assistance and Training Division
- Marketing and Procurement Assistance Division
- Information and Resources Division
- Advocacy and Administrative Operations Division

Each of these four components is briefly described in the remainder of this section.

A. Financial and Management Technical Assistance and Training (MS&TA) Division. This component will implement a well-balanced program to help Indian clients (tribes, individuals, or existing reservation Indian businesses) achieve purposes such as the following:

- Systematically determine and implement factors that will improve the start-up or expansion of their businesses.
- Identify and resolve obstacles inhibiting the success of their businesses.
- Close unsuccessful businesses in the wisest way possible. Assist in the close-down of low potential businesses.

To deliver MS&TA, this division will employ the following two personnel configurations which UIDA has used extensively and successfully.

Staff MS&TA Consultants - Our staff will provide most of the MS&TA. The method UIDA has found most successful is to assign one Management Consultant to each of the following specialty areas:

- Construction
- Manufacturing
- Retail and Wholesale (and all other)

Volunteer MS&TA Consultants - One feature of this key component is management consultation donated to Indian clients but coordinated and monitored by Management Consultants.

UIDA has always used a pool of volunteer professionals. In addition, we consistently add new volunteers. The National Center will use this same model. The Center will build and maintain a Volunteer Pool by using techniques such as the following that have worked so well for us:

- Making the private sector aware of the needs of Indians.
- Reinforcing volunteer efforts by taking time to say "thank you" through techniques such as presenting special awards at annual banquets (in 1985 attended by 475 people excited about Indian business); highlighting successful Indian businesses in our newsletter, the Reporter; and sending an attractive Investors Certificate to effective Volunteer Consultants.

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Typical areas of volunteer specialization include:

- Accounting and Financial
- Production, Engineering and Technical
- Marketing
- Advertising
- Legal
- Specialized and Other Services

MS&TA Staff and Volunteers in this division will provide assistance to the following four client groups of individuals, tribes, and Indian businesses either at no charge or on a fee-for-services-rendered basis. Some of the applicants and clients will come unsolicited, with requests for assistance, others will be contacted through outreach services. The MS&TA Division will develop screening and selection criteria to place each client into one of the following groups.

o **Low Success Probability Applicants/Single Consultation.** The Division Director and Management Consultants will meet with many applicants who do not have the capitalization capabilities or business success potential at that moment to warrant further MS&TA. These clients will be directed to other sources of assistance in the community. Also, they will be encouraged to return to the Center if their resources and business records improve. They will not be charged for this initial consultation.

- **High Success Probability Applicants with General Counseling/Referral and Procurement Requests.** Similarly, we will have many contacts (initial and on-going) with tribes, individuals, and businesses that: (1) have high potential for business success; (2) request our help; but (3) do not want to participate in our MS&TA. Some of these contacts will receive short-term general help from our MS&TA Consultants. Others will be directed to more appropriate sources of help in their communities. Others will decide they do not want any MS&TA help from us or, perhaps, anybody; or will ask us for procurement assistance. None of these applicants or procurement clients will be charged for the assistance we provide no matter how little or much they receive.
- **High Success Probability Clients/Initial Consultation.** These are the potential clients who can demonstrate tangible proof that their current businesses are successful or their proposed ones have a high probability of being profitable. They will be offered further MS&TA, asked to prepare documentation to expedite further consultations, and encouraged to return to the Center and become our clients. They will not be charged for this initial consultation.

- **High Success Probability Clients/On-Going Consultation.** These are the individuals, tribes, and Indian businesses that will become members in the Client Portfolio of each MS&TA Consultant. Our staff will give them specific business assistance in areas appropriate to their needs.

The secret of being a successful Consultant and Volunteer for the MS&TA Division will be preparation: learning about the client and his/her current or potential business; preparing for each meeting; and applying the system of consulting.

This role will require him/her to act as a:

- Catalyst to surface business ideas;
- Teacher to transfer and improve management knowledge and skills;
- Sounding Board to examine business possibilities; and
- Trouble Shooter to find business problem areas (preferably in advance of the problem occurrence).

This division's Staff and Volunteers will emphasize to clients that they will have to do everything they are capable of doing. The Center's role will be to work with clients, question them at length, and suggest alternatives they may not have considered. Along the way, however, the bulk of the load must be shifted from Consultants and Volunteers to clients, whether or not they are referred to other sources of assistance.

B. Marketing and Procurement Assistance Division. This division will be designed to create and maintain Indian jobs by helping Indian businesses sell their products and services to private and public markets. Most Indian businesses do not have the money, staff, or time to tackle these markets. In addition, on government opportunities, Indian businesses usually do not have the patience and skill to complete all the necessary paperwork. Procurement Consultants will work closely with Indian business enterprises to fill all of these gaps.

Center staff will provide market resource and contract procurement assistance and information about the bidding process as well as where Indian businesses can market their land, products and services. More specifically, staff and volunteers will:

- o develop market opportunities, especially through multiple meetings with procurement personnel (e.g., buyers, estimators, contracting personnel)
- o promote business partnerships (joint ventures, volunteer management, capital and ownership participation);
- o perform idea incubation services and distribute business and economic development (BED) information;
- o prepare marketing packages; and
- o help present such packages to market opportunities.

Staff will be expert in working with Procurement Contract Representatives (PCRs) of the federal government and Small and Minority Business Utilization Representatives (SAMBURs) of state and local governments, and the Small and Disadvantaged Business Utilization Specialists (SADBUs) of private sector companies.

In performing tasks such as those listed above, Center staff will employ automated procurement technology such as the Protech System which:

- identifies the product/service by government code;
- maintains a government agency file for specific procurement needs;
- develops a company profile for matching to the above procurement needs; and
- allows for manipulation of these two data bases and for multiple mailings to client companies.

In addition, the Center will take client and other Indian business information to the sources of market and procurement opportunities. Here are intent will be to stimulate their commitment to Indian business so that more Indian firms win contracts and/or increase the sales of their goods and services, thereby creating Indian employment.

Services will be expedited by automated business information systems and data bases developed by UIDA. For example, through computer access to information on Indian businesses in California, for procurement purposes, we are able to request short and long profiles on these enterprises as well as other cross-tab statistical summaries descriptive of particular types of groups of these Indian businesses.

In turn, the Center will package and present this type of Indian business information to public sector agencies and private sector organizations willing to provide procurement/market, capital, and new business ownership opportunities to Indian businesses.

The Center will not just conduct networking activities including national information on Indian businesses. Staff will also collect, organize, and disseminate information in local inventories. Specifically, we will (1) produce low cost local directories (inventories), and (2) publicize information contained in those directories.

To us, procurement entails matching or linking potential and current Indian businesses with available opportunities (for capitalization, contracts, additional markets, business ownership, or education and training). Procurement Division staff will advise and guide applicants and clients during one-on-one discussions or groups sessions (e.g. Indian business representatives convened because they have a common business field - like construction). In either setting, Procurement Consultants will implement an organized approach for helping Indian participants avail themselves of the business and market opportunities presented. The approach is comprised of these four methods: (1) MS&TA and General Counseling/Referral clients preparation for a procurement transaction; (2) presentation of the procurement information; (3) application of the information presented; and (4) evaluation of the outcome of the marketing transaction.

C. Information and Resources (I&R) Division. Basic to sound business and economic development and job creation is the availability of timely and dependable information, especially for people who are too often outside the informational mainstream. The I&R Division will establish an Indian Business and Economic Development Information Exchange, as an interactive network to help Indian communities exchange workable ideas and practices.

The Exchange will be an interactive network that allows Indian communities to share their real-life expertise. The heart of its information base will be "state-of-the-art" examples (2-3 page case studies) of Indian and non-Indian business development projects and joint venture/partnerships carefully collected from around the country. The examples will be offered in a problem-solving framework, verified, and technically in-depth. Each example will be presented to emphasize the nature of the project, the problems it addressed or resolved (or learnings from problems not overcome), strategies employed, scope and scale of activity, people who made it work, and its financing and setting.

The Exchange's database will be drawn initially from information already created by national Indian organizations involved in business and economic development, tribal governments, those federal agencies involved in such projects, and individual consultants that have assisted those projects. This data base will also include other information pertinent to Indian business development.

It will identify and make available detailed information on: (1) funding sources; (2) technical assistance providers (both for-profit and non-profit), their areas or specialization, and the Indian projects they have assisted; (3) abstracts on how to obtain the most current literature on Indian business and economic development; and (4) economic statistics on American Indians.

The above will be the core of the database. The computer system has been designed and will be installed, using two microcomputers (an IBM PC with a Winchester hard disk of 30K internal memory, available for users; and an IBM XT with 10K memory, for in-house work). Using an integrated software program called MIST, we will be able to provide the kind of networking facilities that are otherwise available only from costly time-sharing utilities. This program can be adapted to accommodate several other functions, which will be applied once it is in place. A User's Guide has been written to accompany the system.

D. Advocacy and Administrative Operations Division. Advocacy staff in this final division will promote pertinent legislative and administrative solutions to the problem of Indian business and economic development. They will perform tasks such as these:

- coordinate information on Indian development;
- compile background information on topical issues;
- assist legislative and administrative staff in establishing forums for dialogue on Indian development;
- develop appropriate business and economic development policies for Indians;
- disseminate information on Indian business development issues to Indian tribes, private industry, and government agencies;

- o develop a network of Reservation Economic Development Professionals (REDPros)--volunteer and paid;
- o communicate through Indian and non-Indian media policies and issues affecting Indian enterprise development;
- o identify new resources in the public/private sectors for Indian business and economic development;
- o determine major obstacles to Indian development;
- o promote viable solutions on Indian development issues.

The Advocacy Division will also be responsible for continuing the annual Reservation Economic Summits on Private Sector Development. This forum of Indian business development experts and tribal leaders reviews key issues and recommends future directions in this field. An unprecedented national conference in 1987 sponsored by UIDA attracted 200 Indian development leaders from 50 tribes and 20 states for a three-day forum addressing issues and policies affecting Indian enterprise development. The second Summit is scheduled for March 30 - April 1, 1938.

To allow for timely start-up and management of The National Center, it is proposed that an existing organization with the prerequisite experience, capabilities and operating systems take on the administrative responsible to foster The National Center. Support would take the form of fiscal agent, operating systems implementation, staff training and development and related administrative requirements.

V. ORGANIZATION AND MANAGEMENT OF THE PROPOSED NATIONAL CENTER

The organizational chart in Figure 5 portrays the relationship between UIDA, its Board of Directors, the proposed National Center, and the Center's Advisory Board.

Each of the Center's four divisions will be supervised by a Vice President reporting to the National Center Vice President/General Manager, who in turn will be responsible to the UIDA President (responsible to the UIDA Board of Directors and the National Advisory Board).

The National Center Advisory Board would be composed of national Indian leaders (tribes, NCAI, CERT, CTER and businesspersons) and representatives from private industry who are commited to tribal economic self-determination. The Center would be centrally located to quickly respond to the needs and issues of American Indian economic and business growth.

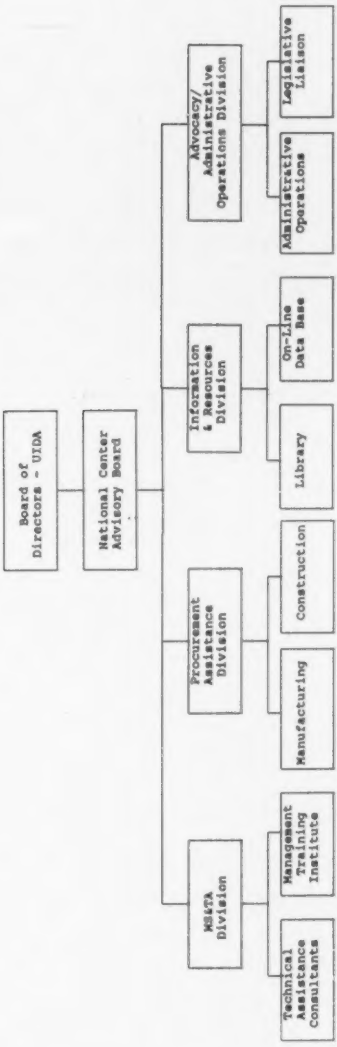
VI. Proposed Level of Resources

Given expanded MS&TA, increased Indian business ownership and new business opportunities, the Center could achieve annual returns of $20 million in new financing, $30 million in new sales contracts and 2,000 new jobs at full operation. Annual budget options include:

	Basic	Partial	Full
National Office	$500,000	$ 500,000	$ 500,000
Capital Fund *		1,000,000	1,000,000
Regional Centers			
Denver			300,000
Albuquerque			300,000
Seattle			300,000
Total	$500,000	$1,500,000	$2,400,000

* $300,000 to be commited by UIDA upon start-up.

Figure 5


Board of Directors - UIDA
National Center Advisory Board
Advocacy/ Administrative Operations Division
Legislative Liaison
Administrative Operations
Information & Resources Division
On-Line Data Base
Library
Procurement Assistance Division
Construction
Manufacturing
MS&TA Division
Management Training Institute
Technical Assistance Consultants

STATEMENT OF CARL R. McKAY
CHAIRMAN, Devils Lake Sioux Tribe
Fort Totten, North Dakota

"Barriers to Native American participation in government procurement contracting."

I wish to thank the Committee for inviting me to participate in the oversight hearings this morning. It has been my experience that these kinds of oversight hearings are helpful in focusing in on solutions to difficult problems within Indian Country. Since there is no more intractable problem facing Native American communities than providing for an economic future for our children, todays topic is even more timely.

The Devils Lake Sioux Tribe has been working diligently for almost two decades to insure that our children can stay on their reservation to enjoy their cultural inheritance while pursuing meaningful employment. The Devils Lake Sioux Manufacturing Corporation and the Dakota Tribal Industries Corporation are two business entities which the Tribe has created to meet this need. We recognize that without the commitment of the federal government; none of this would have been possible. It is the degree of federal will to support Indian enterprises that will determine the success rate in Indian Country.

I am here this morning to give my support to the proposals being considered this morning. They will help strengthen the federal commitment to promoting Tribal-owned Disadvantaged Businesses. On my reservation, absent this commitment in the past, the prospects for meaningful employment for my people would be very grim indeed.

I believe that an exemption for Indian tribes from the requirement to compete on procurements over a specific amount is a necessary measure. Most reservations have neither the resources or expertise in contracting to realistically go out and compete to obtain those first beginning contracts. The exemption from competition merely provides "real" opportunity for the establishment of a successful business which can provide economic opportunities for our children.

It is important that the SBA 8(a) rule regarding "once in a lifetime" not be applied to Indian Tribes. Tribes need the ability to use the 8(a) mechanism to start up a variety of businesses to provide meaningful employment so that our members can remain with their people. Dakota Tribal Industries Corporation is an excellent example of this need.

Devils Lake Sioux Manufacturing Corporation could have only been the success story it is by the use of a joint venture. Part of this success is also because at the time Devils Lake Sioux Manufacturing Corporation (DLSMC) was set up, its only competitor, Brunswick, was our joint venture partner. Brunswick was the sole source provider of camouflage screening systems to DOD. This unique arrangement was a recipe for success.

Devils Lake Sioux Manufacturing's experience with the process of graduating from the 8(a) program is a case study in why the

participation period in the 8(a) program must be expanded. We were given several extensions because it was recognized that an 8(a) company can not graduate out of the program without significant disruptions in the way business has been conducted. Each business will have its unique circumstances which can not be addressed by a simple rule. Finally, Congress itself has set the priority of increased Dod contracting on reservations. In order to meet this goal, the 8(a) graduation rule needs to be flexible.

It would be helpful to have an Indian desk in the Small Business Administration. The SBA needs to build up its expertise in working with Native Americans and in particular, Tribal enterprises. This experience will improve the effectiveness of SBA in working in Indian Country.

The concept of an incentive for subcontracting with tribally-owned firms is not a bad one. The problem is that its effect, at least from the Devils Lake Sioux Tribe's perspective, would be very limited. It simply would not go very far in meeting the need for dependable, long-term employment that is required in geographically isolated reservations like the Devils Lake Sioux Indian Reservation in North Dakota.

It is my view that the only comprehensive solution to this problem is to create a Native American UNICORE type organization which actively promotes Native American contracting with the Department of Defense. We face UNICORE pressure on all of our contracts and it is difficult to understand why the federal government has a greater commitment to federal prisoners than to Native Americans. This priority must be changed.

TESTIMONY OF RON SOLIMON
PRESIDENT OF LAGUNA INDUSTRIES, INC.
IN SUPPORT OF S.1993 - MINORITY BUSINESS
DEVELOPMENT PROGRAM REFORM ACT

I. INTRODUCTORY REMARKS

Pueblo of Laguna.

Laguna Industries, Inc. is a corporation incorporated and owned by the Pueblo of Laguna. Located in central New Mexico, the Pueblo of Laguna is one of the oldest recognized Indian governments in the United States. The Pueblo is governed pursuant to a Tribal Constitution authorized by the Indian Reorganization Act of 1934. Pueblo of Laguna lands comprise approximately 525,000 acres. The current population of the Pueblo is approximately 7,500.

In 1985, after several years of pre-formation work, the Pueblo founded the corporation which is now known as Laguna Industries, Inc. The corporation is chartered both under tribal law and the laws of the State of New Mexico. Laguna Industries has been granted SBA 8(a) status and has achieved remarkable success in its few short years of its operation. However, to fully appreciate and understand the critical importance of Laguna Industries to the people of the Pueblo of Laguna it is essential to briefly review the employment and economic activity of the Pueblo.

Typically, as elsewhere in Indian country, there is some employment opportunity in governmental work which includes opportunities with the Bureau of Indian Affairs offices, tribal offices, and local schools. In the private sector, at the Pueblo of Laguna the biggest employer at the Pueblo since the late 1950s was the Jackpile Uranium Mine.

That mine, which now has been closed for several years, was the chief source of employment for many tribal members. After the close of the Jackpile Mine, the Pueblo governmental leaders have focused on the need to develop viable commercial and industrial activities that will productively employ tribal members as well as provide a source of income for the Pueblo. As the educational level and skills of the people of Laguna have increased dramatically in the last ten years so too has their ability to undertake complex commercial and industrial activities. The Pueblo has, for example, developed the Laguna Commercial Center which is a small shopping center which houses a large grocery and general store and boutique-type shops. The modest level of employment offered by the Commercial Center is complemented in value by the retail service the Commercial Center provides Laguna community members. Other than miscellaneous arts and crafts production and some farming and ranching activity, not even marginal employment opportunities exist elsewhere within the area of the Pueblo. Thus, with the development of Laguna Industries the Pueblo has placed a substantial portion of its economic goals with respect to security of its members and the Pueblo as a whole in Laguna Industries.

II. LAGUNA INDUSTRIES, INC.

The Pueblo of Laguna executed the pre-incorporation work to start Laguna Industries in conjunction with assistance from Raytheon Corporation. This endeavor has proved to be invaluable in ensuring that proper planning preceded the actual operation of Laguna Industries. As can be quickly discerned from the statistics from fiscal years 1985 through 1987, one can see growth in the amount of work undertaken pursuant to Laguna Industries' contract with the Department of Defense. For example, the fiscal year 1985

contract for building 117 communication shelters yielded a cumulative revenue to Laguna Industries of $10.4 million. The fiscal year ending 1987 shows the Laguna Industries with total contracts of $53.5 million. This steady pattern of success has resulted in a number of meaningful jobs for members of the Pueblo. Directly employed personnel include the Plant Operations Department of a total of 164 persons and includes management staff, quality insurance staff and inspectors, and manufacturing engineering staff. In addition to the Plant Operations Department, of course, are a number of persons are employed in the executive management including new program development, industrial relations, contract administration, and the finance staff. In short, Laguna Industries currently employs 180 people in a variety of skilled management and labor positions. The annual payroll of Laguna Industries, the vast bulk of which flows directly to members of the Pueblo, is $3,000,000. In its few short years of existence, Laguna Industries has indeed developed through the hard work and dedication of the people of the Pueblo of Laguna into a model Section 8(a) program of value throughout Indian country. However, some additional changes in the Minority Business Development Program Reform Act would further facilitate the development of Laguna Industries as well as similar 8(a) corporations of other tribes.

III. PROPOSED AMENDMENTS.

We recommend that there be an amendment to provide a meaningful incentive for subcontracting of Department of Defense contracts to Native American and Indian tribes. That amendment should read:

> To increase the level of Department of Defense subcontracting to business concerns owned by American Indians, qualified Indian tribes, and Native Hawaiians, the Secretary of Defense, pursuant to the provisions of Section 1207(c)(3) of P.L. 99-661, shall pay a price exceeding fair market cost by 5% in payment per contract where the subcontractor is a business concern owned by an American Indian, or qualified Indian tribe that is located within an Indian reservation as defined in Section 2 of P.L. 93-638, or by a Native Hawaiian that is located in the State of Hawaii.

By adding this language to the Minority Business Development Program, further incentive will be provided to major defense contractors to seek out and award contracts to competent businesses owned by Indians and Indian tribes. This federal policy of promoting the interests of Indian owned companies dates back at least to as early as 1910 with the enactment of the Buy Indian Act, 25 U.S.C. § 47. The United States has consistently acted in furtherance of its special relationship with Indian tribes and Indian people to provide for preference in government contracting and government employment. (See, i.e., Morton v. Mancari, 417 U.S. 535 (1974)). This proposed amendment would be consistent with this long held federal practice.

As the unique relationship between the federal government and Indian tribes and Indian people can be furthered by the foregoing proposed amendments so to would be appropriate to provide an additional amendment to exempt Indian tribes from requirement to compete. Therefore, it is our recommendation that Section 702 should provide an "Indian Tribe Exemption" as follows:

> Section 8(a)(1)(E)(I) of the Small Business Act, as amended by Section 403 of this Act, shall not apply to concerns owned and controlled by qualified Indian tribes as defined in Section 3(d) of the Small Business Act.

We further propose an amendment to increase the length of program participation. This could be accomplished by amending S.1993 as follows:

> On p.7 line 6, insert the following after the word "years", ", or, in the case of qualified Indian tribes, 12 years,".
>
> On p.8 line 23, insert the following after the word "years", ", or, in the case of a qualified Indian tribes, 12 years,".
>
> On p.26 line 18, insert the following after the word "years", ", or, in the case of qualified Indian tribes, 6 years,".
>
> On p.26 line 21, insert the following after the word "years", ", or, in the case of qualified Indian tribes, 7 years,".
>
> On p.26 line 24, insert the following after the word "years", ", or, in the case of qualified Indian tribes, 9 years,".
>
> On p.27 line 2, insert the following after the word "years", ", or, in the case of qualified Indian tribes, 11 years,".

As is essential that the operations of entities such as Laguna Industries have adequate expertise initially available to it in the performance of contracts awarded to it, it is our recommendation that there be an amendment to permit Section 8(a) contracting with joint ventures of a tribally-owned enterprise. The amendment that we propose is as follows:

> On p.23, line 16, subparagraph (d) is re-written as follows:
>
> (D) No joint venture established under the authority of this paragraph shall be eligible for an award of any contract or subcontract pursuant to Sections 8(a), 8(d), 9, or 15 unless
>
> (i) such joint venture would have been eligible in the absence of the provision of this paragraph; or

(ii) such joint venture is 51% or more owned by a qualified Indian tribe as defined in Section 3(d) of the Act, the primary activities of the joint venture take place on an Indian reservation as defined in Section 2 of P.L. 93-638, the majority of the employees are Indian, and the Administrator has otherwise determined that such venture will directly benefit the Indian tribe.

Because tribally-owned enterprises are very different from those owned by individuals, the "once in a lifetime" rule makes little sense for a tribally-owned enterprises. It is our recommendation therefore that there be an amendment to exempt tribal enterprises from the "once in a lifetime" rule. Our proposed amendment reads as follows:

On p.53, insert the following new section:

Sec. 703. Provisions for Tribal-Owned Enterprises

(a) In the case of a qualified Indian tribe, as defined in Section 3(d) of the Small Business Act, a tribally-owned concern enrolled in the 8(a) program shall use up the tribe's 8(a) eligibility in those Standard Industrial Code classifications in which the tribal business is enrolled, but shall not disqualify that tribe for enrolling other tribally-owned businesses in the 8(a) program so long as they are in other Standard Industrial Code classifications.

(b) In the case of a qualified Indian tribe, as defined in Section 3(d) of the Small Business Act, an individual's eligibility in qualifying for Section 8(a) program participation is limited to twice as a manager of a tribally-owned business concern and once as an owner of a business concern.

The dramatic success of Laguna Industries, as I discussed previously, indicate that the prohibition on receipt of a contract more than 130% larger than the immediately preceding contract would work to the disadvantage of truly successful enterprises like with the Laguna Industries. It is, therefore, our recommendation that an amendment be

added to the bill to eliminate the prohibition on receipt of a contract more than 150% larger than the immediately preceding one. We propose the following:

> On p.33, insert the following new paragraph after line 12:
>
> (iii) the requirements of subclause (i) and (ii) shall not apply to a Program Participant that is a qualified Indian tribe as defined in Section 3(d) of this Act.

The experience of the Small Business Administration is not unlike that of other federal agencies that have had programs geared towards the country at large but also towards Indian tribes. Inevitably, the realization sets in that Indian tribes are in fact unique and that it is essential to create a special department or "desk" to deal with the Indian programs. We, therefore, propose an amendment to create a National and a Regional Indian Desks. Section 501 of S.1993 should be amended by inserting the following new paragraph:

> (c) Indian Desk - Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11) (as amended by this Act) is amended by adding at the end thereof the following new subparagraph:
>
> (E) There is established within the Office of Minority Small Business and Capital Ownership Development Division of Minority Small Business Certification a national Indian Desk and Regional Indian Specialists who shall be responsible for:
>
> (i) receiving applications for certification as Program Participants from concerns owned by socially and economically disadvantaged Indians and Indian tribes;
>
> (ii) making recommendations regarding certifications of a prospective Program Participant to the Director; and
>
> (iii) facilitating the transmission of information between the Administration and Indian applicants.

IV. CONCLUSION

With the additional suggested amendments listed above, it is the belief of the Pueblo of Laguna and Laguna Industries, Inc. that the Section 8(a) program can truly be the single most vital ingredient in the economic independence and self-sufficiency of Indian tribes. The goals of the federal government and indeed of this current administration which has in large part followed the federal policies of the last twenty years of self-determination and economic self-sufficiency of Indian tribes can only be enhanced by the passage of Senate Bill 1993 with the proposed amendments that we have referred to above. On behalf of the Pueblo of Laguna and the employees at Laguna Industries, I thank you very much for the opportunity to make this presentation this morning.

RS-Test

WRITTEN STATEMENT OF
STEVEN A. JOHNSON
ASSISTANT LAND & RESOURCE MANAGER
ON BEHALF OF
KOOTZNOOWOO, INC. AND KOOTZNOOWOO GOVERNMENT SERVICES, INC.
PREPARED FOR THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

February 23, 1988

Oversight Hearing On "Barriers To Native American
Participation In Government Procurement Contracting Programs"

OVERSIGHT HEARING ON "BARRIERS TO NATIVE AMERICAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING PROGRAMS"

Chairman Inouye and distinguished members of the Committee, I am pleased to have been invited to testify today to present the views of Kootznoowoo, Inc. and its wholly-owned subsidiary, Kootznoowoo Government Services, Inc., regarding the barriers to Native American participation in government procurement contracting programs. Kootznoowoo is an Alaskan Native Claims Settlement Act (ANCSA) Village Corporation located in Angoon, Alaska which is on Admiralty Island.

Kootznoowoo wholeheartedly commends and supports this Committee's efforts and its recognition of the need for changes to government procurement programs which, while designed and developed to assist minority businesses, have not, in fact, benefitted Native Americans, including Indians and Native Hawaiians.

We respectfully request that any recommendations made by this Committee to the Senate Small Business Committee in connection with its 8(a) reform legislation, S. 1993, or to any other committee, specifically include language applicable to Alaska Native Claims Settlement Act corporations (ANCSA corporations), specifically to the village corporations. Congress has previously recognized the special status of "Indian tribes", including Alaskan native village corporations, by explicitly providing for a presumption that Indian tribes are socially disadvantaged.

This testimony will focus briefly on the specific experience of Kootznoowoo Government Services in attempting to obtain 8(a) certification and recommend proposed changes to facilitate the

unique requirements of certification of native tribes and native corporations. Both the House and Senate Committees on Small Business have heard testimony on the Small Business Administration's failure to timely process applications for certification in the 8(a) program. The ineffectiveness of the SBA in processing applications is compounded when the application for certification into the 8(a) program is filed by an ANCSA corporation.

The sad truth is that SBA has neither the regulations nor internal operating procedures to provide its field personnel with guidance as to the appropriate way to certify a native tribe or a native corporation, although native regional and village corporations have been included in the definition of "socially and economically disadvantaged" persons under the 8(a) program since 1986. Since that time, SBA has been "developing" regulations to implement certification procedures for ANCSA corporations. It is unclear at this time when the proposed regulations will be published for comment and whether they will address, in fact, the problems faced by native corporations and tribes in obtaining certification. For this reason, we recommend that Congress provide guidance to the SBA in seven areas outlined below and require the SBA to promptly promulgate regulations implementing this guidance.

Kootznoowoo's own continuing experience in attempting to gain 8(a) certification is a prime example of the SBA's current ineffectiveness in this area. In mid-1980, when Kootznoowoo first became interested in obtaining certification into the 8(a) program, several of the corporation's leaders made a trip to Seattle, the region with jurisdiction over Admiralty Island. We

left the meeting discouraged and disappointed because our impression was that the Seattle Region was not interested in taking upon itself the task of certifying a native corporation because it had never previously done so. We were, in fact, encouraged not to pursue certification at that time.

However, in February, 1987, Kootznoowoo made a decision to pursue 8(a) certification for its newly established subsidiary, Kootznoowoo Government Services, Inc. (KGS). In March, 1987, Kootznoowoo submitted our Phase I application, which is a two page application. Despite the fact that the SBA's sole chore was to determine whether there was work available in the industry selected, the SBA did not approve the Phase I application for seven months. In fact, the application was first rejected by the Seattle Region on the basis that no "local buy" work was available. Absent intervention from the SBA Central Office, the application would have been rejected by the Seattle Region. The Phase II portion of the application was submitted in November, 1987 and three months later, the SBA has now asked us for additional information including such information as to present unemployment among the members of the village corporation, the per capita income of members, the percentage of members below poverty level, and the village corporation's access to capital markets as evidence of economic disadvantages. We still do not know how much more time will elapse before the SBA processes our application. Moreover, despite our qualifications, we are not certain that the application will be approved.

Congress recently reaffirmed its commitment to recognizing the eligibility of native corporations for minority business

enterprise programs pursuant to the Alaskan Native Claims Settlement Act Amendments of 1987. Specifically, the Act recognizes that all Native corporations and direct and indirect subsidiary corporations, joint-ventures, and partnerships of the native corporation must be considered corporations owned and controlled by Natives and a minority business enterprise for all purposes of federal law. Kootznoowoo falls squarely within this definition.

Despite this recent confirmation of native corporations' status as minority business enterprises by Congress, the SBA is continuing to have difficulty processing 8(a) applications submitted by Native tribes and corporations. Moreover, most information being requested of Kootznoowoo Government Services including the personal financing statements of the entire Kootznoowoo Board of Directors is unnecessary and does not take into account the unique circumstances of the corporation. As a result, to require the SBA to streamline its certification process and provide valid reasons for a refusal to certify a native tribe or a native corporation, we recommend that the Senate and House amend their current bills to provide that if the SBA fails to process 8(a) certification applications for native tribes and native corporations within 90 days and fails to state legitimate reasons why the application should not be approved, the applications for certification should be deemed approved.

In addition, as a result of the current deficiencies in the SBA's administration and processing of 8(a) applications for native tribes and ANCSA corporations, we recommend that Congress enact a statutory provision directing the SBA to promulgate the

following regulations pertaining to certification of Indian tribes and ANCSA corporations:

1. Natural resource revenues received by Alaskan Native groups, individuals, and Regional or Village corporations should not be included in calculating average annual revenues in determinations of "economic disadvantage."

2. Natural resource revenues should not be included in calculating average annual revenues for purposes of standard industrial classification code eligibility based upon size.

3. 8(a) ANCSA firms should be exempt from affiliation criteria concerning their association with ANCSA Village and Regional corporations.

4. The principles of an SBA case, the Doyon case, exempting Village and Regional corporations from affiliation standards, should apply as well when there is no separate corporate subsidiary.

5. The physical location of ANCSA 8(a) businesses must be flexible to allow for greatest competition.

6. Require the expeditious consideration of ANCSA Section 8(a) applications.

7. ANCSA corporations must be exempt from the two year corporate existence requirement which provides that an 8(a) concern must be in existence for two years prior to entry into the program.

Most of these recommendations could appropriately be expanded to native tribes as well.

Briefly, the above seven recommendations are mandated by the widely recognized unique status of Native corporations and tribes within the United States, their unique relationship to the federal government and the inability of the SBA to effectively administer the 8(a) program so it may benefit Native Americans. For instance, regulations excluding natural resource revenues from a determination of economic disability and standard industrial classification

code eligibility under specific size standards are required because of the unique nature of the Indian tribes' and native corporations' rights in the natural resources. The United States government provided Native corporations with their rights in the natural resources to redress prior injuries. In an analagous situation, the Internal Revenue Code specifically recognizes that any monies received as compensation for prior injury is not deemed income and therefore is not taxable. The Small Business Act, itself, already recognizes that judgment awards are excluded in determining per capita income of the members of an Indian tribe. Accordingly, the exclusion of revenues derived from natural resources should also be excluded in both calculating economic disadvantage and determining size eligibility under a specific standard industrial classification code.

Moreover, we have recommended that the SBA be directed through legislation to promulgate regulations explicitly codifying the principals of the Doyon case which recognizes the unique position of Alaskan Natives. The Doyon rule provides that subsidiaries of Alaskan Native corporations are not subject to affiliation rules. The recognition of the unique status of Alaskan Native corporations also requires that the Doyon rule be expanded to situations in which there are no formal corporate subsidiaries.

As stated previously, Kootznoowoo's original Phase I application was originally denied due to a lack of local buy requirements. The SBA must be required to promulgate a regulation which specifically clarifies that village corporations be able to locate and operate 8(a) offices outside of Alaska due to the physical, economic

and commercial isolation of Alaskan Native corporations from the rest of the country. Native corporations should be permitted to establish headquarters and offices outside of Alaska. The establishment of 8(a) Native corporations will permit them to bring back jobs to their own geographic area.

Moreover, our request that Native corporations be exempt from the current SBA requirement that an 8(a) concern be in existence for two (2) years prior to entry into the program, is necessary due to the realities of the commercial environment of Native corporations.

On December 11, 1987, Kootznoowoo, Inc. and KGS, through its 8(a) law firm submitted a more detailed explanation of the need for these seven clarifications to the Administrator of the Small Business Administration. With your permission, I would like to make this position paper part of the Record.

In addition to the seven recommendations detailed above, we believe that prime contractors have not adequately fulfilled their duties under Public Law 95-507 which requires that they subcontract with minority-owned concerns. At a minimum, we recommend that a provision be added to S. 1993 to give prime contractors a 5% incentive payment of the contract price for subcontracting with village corporations as well as other tribal enterprises. We believe that the enactment of such an incentive payment would have a direct beneficial effect on subcontracting opportunities for Indian and Hawaiian Native firms. For example, this 5% payment would provide incentives for prime contractors to set-up new operations in isolated areas such as Alaska, an under-

taking which otherwise may be too costly to pursue.

Moreover, in anticipation of ultimate certification into the 8(a) program, we support the testimony heard today and recommend the following changes to S. 1993: (1) an exemption for Indian tribes and ANCSA corporations from the requirement to compete on procurements of a specific amount similar to the exemption contained in H.R. 1807; (2) an increase in the number of years which native tribes and native corporations may participate in the program; (3) a modification to permit joint ventures that include a non-8(a) enterprise to receive 8(a) contracts; (4) elimination of the prohibition of receiving a contract that is more than 150% larger than a previous contract; and (5) elimination of the mandatory requirement that 8(a) concerns have a specific percentage mix of 8(a) versus non-8(a) contracts during each year of participation in the 8(a) program.

Finally, we believe that this committee should formally request that the Department of Defense and the Armed Services Committee consider amending the Section 1207 regulations governing the small disadvantaged business set-aside regulations to specifically include "Indian tribes", as it is defined under the SBA's 8(a) regulations to include Alaskan Native village or regional corporations, as a group presumed to be socially disadvantaged. Currently, the Section 1207 regulations contain all of the SBA's presumed categories of "social disadvantage" except Indian tribes. If the Section 1207 regulations are not amended, ANCSA corporations will face increased challenges to their status as economically and socially disadvantaged firms, thereby decreasing their ability to

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benefit from the small disadvantaged business set-aside program.

Mr. Chairman, we would appreciate the opportunity to supplement our submission by the end of the week as there may be other areas that we would like to address.

We look forward to continued opportunities to work with this Committee to increase Native American participation in government procurement contracting.

BACKGROUND INFORMATION

ON

PUEBLO OF LAGUNA - RAYTHEON SERVICE COMPANY

DEPOT ENTERPRISE

James E. Sloan, Vice President
Raytheon Service Company
February 23, 1988

BACKGROUND INFORMATION

ON

PUEBLO OF LAGUNA-RAYTHEON SERVICE COMPANY

DEPOT ENTERPRISE

Following an economic development talk given by James E. Sloan of Raytheon Service Company at the National Tribal Chairmen's Association meeting in Wichita, Kansas in July 1980, Raytheon Service Company (RSC) was approached by Pueblo of Laguna members for advice/suggestions regarding industrial development on their pueblo. Several meetings were held with Laguna representatives in the following months, in an attempt to formulate some economically viable long-range industrial enterprise to replace jobs being lost through the phased shutdown of the uranium mines by Anaconda—the largest and, virtually, the only employer on the pueblo.

In the normal conduct of its Overhaul and Repair business, Raytheon Service Company had long been aware of the large amount of in-house work performed by the various military depots. This large and predictable workload has generally been unavailable to large contractors, such as Raytheon, because of the desire by the government depot management to retain as much work as possible in-house, although some small business and 8-A set-aside contracts have been awarded. In view of the stated policy of the Government at the time to reduce Government employment and contract as much work as possible to private industry, the diversion of a small amount of work was thought to be feasible (200 to 400 man years from the large number of man years applied in the depots in 1981; 37,000 man years in the Army depots alone).

This need and desire by the Lagunas for work, the probable availability of work that could be moved outside the Government depots, the existing skills and work experience, and existing first-class (but empty) facility at Mesita, NM and the possibility of startup funding combined with RSC's business, technical, and training know-how in the overhaul and repair field were considered to offer all the basic ingredients of a potentially successful project. From the very beginning, it was always planned that any enterprise had to be commercially viable (i.e., profitable) and to be cost effective for the customer.

The advantage to the Pueblo of Laguna for such a long-term operation would be:

1. Employment, on the reservation, of several hundred tribal members, in skilled and semi-skilled personnel;
2. Income for the tribal government. All of the enterprises' profits would go to the pueblo;
3. Utilizatien of an existing unused facility, and
4. The possible expansion of the enterprise into a more broadly based successful commercial business.

The advantages to Raytheon Service Company would be:

1. A management and vocational training contract for support of the Lagunas until the enterprise could stand alone;
2. The establishment of a precedent for moving in-house backlogged Government work into private industrial hands;
3. Availability of a competently managed facility for possible overflow subcontract work from existing Raytheon Overhaul and Repair facilities; and

4. Participation in a program of substantial social benefit which at the same time was good business for all parties concerned--the Government, the Pueblo of Laguna, and Raytheon Service Company.

At the request of the Pueblo of Laguna, Raytheon Service Company prepared a proposal for a feasibility study of such a project, Anaconda (Arco) provided funding to the Pueblo of Laguna for the study, and work was initiated in the Spring of 1981. A comprehensive management plan was prepared, and the Laguna/Raytheon team obtained funding commitments of over $5M from various Government agencies, most of them contingent upon getting contractual commitments.

Investigation of initially using the facility as a Raytheon Service Company overflow/feeder supplier indicated that the highly competitive nature of RSC's business would undoubtedly bring many large fluctuations in the workload due to its uncertain nature and volume.

Since a small business/8A set-aside approach was thought legally doubtful and likely to be an extremely lengthy process even if the Small Business Administration was cooperative, an aggressive effort was made to get the Laguna depot enterprise approved as a designated overhaul point for specific military equipments.

Marketing attempts were made at some Government depots, but results were not encouraging; no depot was willing to put work outside unless directed to do so, and then only to meet their small business/minority set-aside quotas. Hence, a series of contacts were made at the Department of Defense level, culminating in visits to the Principal Deputy Assistant Secretary of Defense's office. The purpose of these meetings was to obtain DoD support and direction to their depots to put work into the Laguna Depot Enterprise. When the authority of the Office of the Secretary of Defense to issue sole source "contract awards" under the existing Buy Indian Statute was questioned, Senators P. Domenici (R-New Mexico) and T. Stevens (R-Alaska) were instrumental in adding wording to the FY 1982 Defense Appropriation Bill which encourages the assignment of work to Indians.

The response of the Department of Defense to that legislation was to avoid its use, but instead to get a change in the Small Business Administration 8-A regulations, to permit tribally owned enterprises to qualify under the existing 8-A minority set aside laws. This would permit DoD to utilize its current administrative procedures without setting up new contracting mechanisms. This was finally accomplished by a Memorandum of Understanding signed on September 29, 1983 between the Department of Defense and the Small Business Administration.

Prior to this event, efforts to get work assigned to the Laguna enterprise was not successful. However, when it became possible through the Memorandum of Understanding to have work set-aside for tribally owned businesses via the SBA, Raytheon identified a U. S. electronic shelter installation project (at that time being performed at the Tobyhanna Army Depot) as a good candidate project for the Lagunas. The initial technical content was within their capabilities, and the electronic systems to be installed were in large part designed and produced by the Equipment Division of Raytheon so that engineering support and knowledge of overall program considerations could be made available to the Lagunas as needed to support the project by Raytheon. It was known by Raytheon that a competitive procurement to industry had been planned following initial shelter design and prototype construction at Tobyhanna Army Depot.

The Pueblo of Laguna formed a separate corporate entity, Laguna Industries, Inc. (LII) registered in the state of New Mexico, with a board of directors independent of the Pueblo's tribal council and the 8-A certification process was initiated. A Laguna tribal member was selected as President and an organization was formed to obtain and then manage the business. The separate Board of Directors avoided problems often encountered with other Indian tribally owned enterprises whose day to day business decisions were decided in tribal council meetings.

Separately, presentations were made to introduce Laguna Industries to the U. S. Army Tri-Tac program management at Ft. Monmouth and to the Small Business Administration to begin the set-aside process for the shelter installation contract for the Tri-Tac equipment. It was this procurement that was successfully set-aside under the 8-A process for Laguna Industries, but only after the U. S. Army project office had been satisfied by meetings and inspection visits to the LII facility at Mesita, NM that the project could be successfully accomplished.

A fixed price proposal for the work was then submitted to the Army, negotiated by LII and work started at the LII facility. A first "formal" program review was held by Raytheon Service Company and LII at the Laguna facility in Mesita with the U. S. Army project people as observers. As in all start-up projects, several schedule and management problems were reviewed and corrective actions initiated. LII, with intensive, dedicated work, was able to meet its contractual commitments. An "on time" delivery ceremony was held at Laguna in the Spring of 1986 at which time the U. S. Army project manager highly praised Laguna Industries for its performance.

For the Pueblo of Laguna and its people, this project trained a cadre of managers and production workers who have been able to perpetuate and expand their business base beyond the initial $10.7M contract. New work was added after "on time" deliveries started on the existing contract. By the end of 1987, LII had been awarded over $50M in DoD contracts.

Raytheon Company's participation in the Laguna development project has been continuous since 1980. After the first management study contract between Laguna and Raytheon, continuous planning, marketing, and management support was provided by Raytheon and its senior executives. Project identification, strategy

advice, and management consultation regarding LII structure and organization was provided. In addition, an introduction to the U. S. Army project management, technical and business support with ANA, SBA, and DoD personnel was given during the development period. Particularly important was the ANA consultation and financial grant support as the project neared reality. Prior to the actual contract award on August 29, 1985, ANA displayed its faith and confidence in both Laguna and Raytheon by approving financial grant extensions for funds to bring on board the Raytheon training team and the future Laguna key personnel. During this period, again with support from Raytheon, the Mesita facility was completely rehabilitated and the future manufacturing process flows were laid out and personnel prepared for U. S. Army and SBA evaluation visits. This preparatory effort was a key to providing the U. S. Army with concrete evidence that their contract could be safely awarded to LII.

Raytheon is now completing its technical support contract agreement with LII which has provided training assistance and advice during the initial project phases. As the Laguna employees have become adequately trained, their Raytheon counterparts have withdrawn from direct project participation. Raytheon is still fully committed to provide long term assistance to Laguna to insure not only the success of this first project but also support the long term growth of LII. We are continuing to provide ad-hoc advice and assistance to LII as seems appropriate to both parties.

Future continued success will take substantial effort by Laguna Industries to protect the business now in hand as well as market their capabilities to other DoD customers. Some efforts have been started, but there are some significant limitations to substantial additional growth.

1. The current management is very busy with the day-to-day direction of the business. Little time is available for new customer marketing.
2. The available management resources from the Pueblo of Laguna are limited. Several non-Indian middle managers have been hired by LII to overcome this situation. At present, the on-the-job progression of Laguna employees is continuing, but it will be some time before all managers will be Indian.
3. The available general labor pool at Laguna and the immediate surrounding area is not unlimited. Total enrolled population of the Pueblo of Laguna is about 6500, with perhaps 60% living on the reservation. After taking into account the large very young population, those who have jobs elsewhere, and the likelihood of a labor intensive mine reclamation project starting in a year or two, the expansion of LII may require investments in more automation to enable business growth without substantial personnel growth.

The team which brought this contract to life consisted of truly dedicated people from the Pueblo of Laguna, Raytheon and Raytheon Service Company, Senator Pete Domenici's office, Department of Health and Human Services (Administration for Native Americans), the Department of Interior (BIA), and the Defense Department's office of Small Business Utilization.

Our experience with Laguna Industries fully supports the suggested provisions.

For example:

1) Exemption from competition rule: If the Army Program had been competed even if Laguna had the financial and technical backing to submit a proposal, the winner would most likely have been a local New Jersey or New York company whose proximity to the customer at Ft. Monmouth would have made marketing inexpensive, and whose staff might well have included ex-government employees well known to the Army. To obtain tribal money to support such a speculative first time start-up all-or-nothing enterprise would have been nearly impossible. We certainly would never have advised Laguna to make such a speculative investment.

2) Regarding the 150% restriction exemption: In the defense business, many contracts are phased contracts where starter contracts are followed by options or entirely new follow-on contracts. In the Laguna case, the original $10.4 million award has increased to over $50M. This increase was absolutely essential both to provide continuity of employment at Laguna as well as to provide the U. S. Army an assured production delivery schedule from a qualified source. This restriction must not remain.

3) The "disadvantaged individual" rule exemption. When LII was in the SBA certification process, the president and all the board members were required to file financial statements, which had no relationship to the actual situation, since the corporation was 100% owned by the Tribe anyway. This time consuming effort further delayed an already tedious procedure and the perceived invasion of privacy of the individuals made it more difficult to fill the board with good people.

4) A joint venture would have made it possible for the financial resources of Raytheon to be used in a businesslike fashion to make the investments necessary for a start-up venture. Raytheon could also participate in competitions for other defense contract from which Raytheon would have been otherwise barred.

5) This restriction has had no effort as yet on the Laguna/Raytheon project.

6) It took nearly one year for Laguna to receive its 8A certification. The SBA has been oriented to assist the black and Hispanic urban communities and the processing of Indian back country certification paperwork seems to have low priority. A recent SBA hearing in Bismarck, North Dakota highlighted this problem.

7) The 5% incentive provision would make it much easier for interested industry managers to "sell" Indian projects to their own higher management. In Raytheon's case, the support for the initial Laguna project was available at the very top of the company, so this provision was not necessary. However, its availability would make marginally profitable propositions appear more desirable, and I believe would encourage much more Indian subcontracting by companies other than Raytheon who may have no individual managers actively interested in sponsoring Indian business development over other minority subcontracting programs.

Select Committee on Indian Affairs
United States Senate

Hearing on Barriers to Native American Participation
in Government Procurement Contracting

STATEMENT OF HERBERT E. ENNIS, PRESIDENT OF
THE DEFENSE DIVISION OF BRUNSWICK CORPORATION

Mr. Chairman, my name is Herbert E. Ennis. I am Vice President of Brunswick Corporation and President of Brunswick's Defense Division. I am also a director of Devils Lake Sioux Manufacturing Corporation of Fort Totten, North Dakota, a company which is 51% owned by the Devils Lake Sioux Tribe of the Fort Totten Indian Reservation and 49% owned by Brunswick. For a number of years following the incorporation of Devils Lake Sioux Manufacturing Corporation fifteen years ago I served as its President.

Although none of us at Brunswick professes to be qualified to discuss the whole range of factors which may be of interest to this hearing, I thought it might be helpful to appear here and talk about what we believe to be the most outstanding example to date of successful Indian participation in Government procurement. In the end, I will be talking about what we believe it takes to produce and sustain other such successes.

Before going on, however, I would like to call your attention to what appears to be an understandable error on page 5 of the "Concept Paper" which accompanied your invitation. Although, as noted later in my statement, Brunswick does provide management and consulting services to A&S Industries, it has no equity in that company, and I believe that the "joint venture" which is intended to be described on page 5 of the "Concept Paper" is Devils Lake Sioux Manufacturing Corporation.

In 1972, Brunswick won a competitive contract to develop manufacturing methods and technology for producing a new and advanced type of camouflage system for the U.S. Army. In August of that year, after beginning work on the program, Brunswick was asked to meet with Army officials and the late Senator Milton Young of North Dakota to explore the feasibility of joining with a North Dakota Indian Tribe in an enterprise which would qualify as a minority-owned small business under Section 8(a) of the Small Business Act. As an "8(a) firm" the company would receive preferential treatment in the award of some of the camouflage production contracts. Those meetings, in which I headed the team representing Brunswick, led to the establishment of Devils Lake Sioux Manufacturing Corporation, which was incorporated in February, 1973 and began production of camouflage systems about one year later.

Devils Lake Sioux Manufacturing Corporation, which I will refer to hereafter simply as "the Company," was originally owned 70% by Brunswick and 30% by the Devils Lake Sioux Tribe. The formal relationships between Brunswick and the Tribe and between Brunswick and the Company were governed, respectively, by a Divestiture Agreement and a Consulting and Management Agreement. The terms of both agreements had to be, and were, approved by the Small Business Administration and the Economic Development Administration. An EDA loan provided a major portion of the plant construction financing, but most of the remainder of the initial financing was provided either by a direct loan from Brunswick or by a bank loan guaranteed by Brunswick.

The Divestiture Agreement permitted, but did not require, the Tribe to buy out Brunswick's interest, at book value, over a period of years. By 1978 the Tribe owned 51% of the Company but has chosen not to increase its share any further since that time, so that Brunswick still owns 49%.

Under the Consulting and Management Agreement Brunswick has provided an on-site management staff, the entire range of corporate support services, the original working capital financing, and, through Brunswick's insurers, employee group insurance and, with significant economies of scale, business risk insurance. As

compensation, Brunswick has been reimbursed for its incremental costs and has received a fee based entirely on pre-tax profits. Thus, the greater the profits, the higher the fee, and if there were no profits, there was no fee. Brunswick therefore had two incentives for striving for the profitability of this venture. One was a return on its investment as part-owner and the other, the fee for management and consulting services.

At this point, I want to emphasize that, in the beginning, there was not a high level of confidence, and no assurance whatever, that this business would be a success. Of course, there were commitments from the Government for help and preferential treatment, but only if the Company delivered the goods at reasonable prices. There were many risks, not the least of which were those related to the productivity of the work force. Furthermore, at that time, no one, within or without the Government, would have forecast the demand which ultimately developed for camouflage systems.

As it turned out, the work force did become productive, both as the result of the hard work, creativity, and patience of the management team, especially the leader, Mr. B. J. Richmond, and because of the innate character of the people. But progress did not come easily, and sustaining that productivity has required

constant vigilance. Unfortunately, we have had limited success in achieving the goal of developing Indian managers who could assume the major share of Company leadership. I will not go into the details of that problem in this statement, but will simply identify it as a matter which deserves serious consideration in the Committee's search for solutions to the overall problem under discussion today.

The Company also benefited from a far greater demand for camouflage systems than had originally been expected and successfully developed another defense product business, the production of military helmets. While the latter business also was identified for partial "small business set-asides," the Company actually had to be just as competitive in its pricing and performance as though there were no such preferences. In fact, in this arena the Company had to face competition from Federal Prison Industries, which has the right to pre-empt the award of Government orders for certain products, including these helmets.

The Company has been extraordinarily successful, both financially and as the provider of jobs for the people on the Reservation and others in the Devils Lake region. As one of the Company's owners and as the provider of business leadership, management services,

and production materials, Brunswick has received very substantial financial benefits. As the other owner and as a major part of the work force, the Tribe has also received very substantial financial benefits.

Every year since the Company's inception it has, with pride, published an Annual Report which describes the Company's success. Attached to my statement is the most recent published report, which is for 1986, the "biggest" year in the Company's history. A reading of this report will provide a clear picture of the financial benefits to both Brunswick and to the Tribe, with one exception. It does not reveal that the total cumulative payroll for the Company since 1973 has amounted to nearly $60 million.

The historical financial summary shows that sales volume grew from just over $5 million in 1974 to about $70 million in 1986 and that net earnings increased from about $200,000 in 1974 to almost $8 million in 1986. Although, as most businesses do, the Company experienced "plateaus" in the midst of this growth, there was forward momentum until 1987.

The Company has not yet published its 1987 report, but I can tell you that last year it had its first significant decline in both sales and earnings. The decline in sales, to $46 million,

occurred in both camouflage and helmets as the result of increased competition as well as lower Government purchases. The Government has been stressing competition and has taken steps to increase the number of manufacturers involved in the camouflage program. In the case of the helmets, a large share went to Federal Prison Industries.

Despite the 1987 decline, the Company remains profitable and is broadening its product line. Maintaining profitability, however, will require continued cost controls and intensified efforts to generate new business.

Meanwhile, the Army has received quality products on or ahead of schedule and at reasonable and competitive prices. So, the Company has succeeded for all of its constituencies. But it didn't "just happen".

The EDA loan, which was promptly repaid, far ahead of schedule, was helpful in the start-up phase, and it was appreciated. The preferential status provided under Section 8(a) of the Small Business Act was of vital importance, and the dedication of the work force also must be recognized as vital.

In our opinion, however, the enterprise still would not have succeeded without profit-motivated leadership and management. We don't mean to imply that we think that Brunswick Corporation is uniquely qualified to provide that leadership and management. That is certainly not the case. In this instance, however, Brunswick did provide the leadership and management, and it did so in order to receive financial rewards. Brunswick has, indeed, received substantial financial rewards, which we acknowledge with pride because (as the saying goes) they were earned.

At this point, I think I should mention that the Tribe has recently decided to assume management responsibilities for the Company, and Brunswick's future roles as a consultant and as the minority shareholder are yet to be worked out. There are problems, however, and although we are hopeful that those problems can be successfully resolved, we admit to a certain concern about the future.

While my statement focuses mainly on Brunswick's experience with Devils Lake Sioux Manufacturing Corporation, I want also to comment on Brunswick's relationship with A&S Tribal Industries in Montana. In that situation, as I mentioned earlier, Brunswick owns no part of the company. In 1975, Brunswick was invited to help with the establishment of, and to provide consulting and

management services to, A&S for participation as the netting supplier in the Army's camouflage program. The Tribal owners had already had about a 10-year history of operating small industrial companies and, as a result, could provide a middle management capability. Brunswick's role was to provide the general, technical and financial management, as well as certain corporate support services.

After becoming established as a source for camouflage netting, A&S Industries later expanded into the manufacture of medical chests and food containers for the U.S. Army and grew to be the largest industrial manufacturer in Montana, with a payroll of $7 million in 1986.

Attached also to my statement is a history of selected financial data for A&S Industries. This history shows A&S's growth in both sales volume (to over $20 million in 1985), and earnings. Although A&S's performance has not been as spectacular as that of Devils Lake Sioux Manufacturing Corporation, it has become, and remains, a major economic benefit for the Fort Peck Indian Reservation.

I will now address specifically the issues and recommendations before this Committee.

On the basis of Brunswick's experience with both Devils Lake Sioux Manufacturing Corporation and A&S Tribal Industries, and on the basis also of Brunswick's long and varied experience in contracting with the Federal Government, it is Brunswick's opinion that:

1. Encouraging joint ventures of Indian Tribes with corporations of substantial size and extensive experience in contracting with the Federal Government is the most effective means of enhancing Indian participation in government procurement. However, in order to attract and retain such corporations as partners in these joint ventures, any proposed arrangement must assure (with legislative support where necessary) that:
   (a) the financial incentives for the corporation are sufficient to induce its best efforts toward the profitability of the joint venture;
   (b) the corporation's investment and legal rights, as defined in any related contractual instruments and generally under the U.S. Constitution, are fully protected from the vagaries of Tribal politics and

from unfair and unreasonable Tribal taxation; and

(c) requirements and goals for Indian participation in management and in the work force are realistic, considering the specific circumstances of the Tribe and of the Reservation involved.

2. Offering the 5% incentive to encourage subcontracting to Native American-owned firms would be of limited value. Government contractors are primarily concerned with the capability and dependability of subcontractors, and unless the contractor has confidence in the performance of the subcontractor, a 5% incentive will be meaningless. In other words, all other things being equal, the incentive would make the difference; but our experience is that all other things are seldom, if ever, equal. The emphasis, therefore, has to be on the quality of the Native American-owned firms.
3. The other recommendations included in the "Concept Paper" appear to be not only reasonable and worthwhile, but also easy for the Government to adopt.

Mr. Chairman, that ends my statement and I again want to express my appreciation and that of Brunswick Corporation for the opportunity to present it.

Devils Lake Sioux Manufacturing Corporation

1986 ANNUAL REPORT

". . . each person is DLSMC and each person can be counted on."

Financial Highlights

(dollars in thousands)

	1986	1985	1984	1983	1982
for the years ended December 31					
Net Sales	$70,600	$61,741	$50,132	$32,962	$33,820
Net Earnings	7,732	6,512	5,164	3,313	3,298
Dividends Paid	2,225	1,600	1,250	1,250	1,000
as of December 31					
Total Assets	$46,966	$43,374	$24,457	$20,889	$15,411
Shareholders' Equity	25,795	20,551	15,189	11,275	8,712
Company Ownership:					
The Devils Lake Sioux Tribe	51%	51%	51%	51%	51%
Brunswick Corporation	49%	49%	49%	49%	49%

To Our Employees and Friends

During 1986, the Devils Lake Sioux Manufacturing Corporation continued to have record performances in sales and profits.

Nineteen eighty-six was also a year of change and planning for the future. During the year DLSMC was graduated from the SBA's 8(a) program and the Board of Directors became keenly aware of the increased competition in our primary product lines. It was evident that various necessary investments must be made in the future of the Company.

During the year, the Company began to make those investments in all types of resources including equipment, laboratories, and engineering staff necessary to cope with the advancing technologies. These investments are just beginning to pay off with the award of several small but significant contracts for DLSMC's composite armor products. We are expecting good growth in this business. Additionally we are continuing to look at several other entry opportunities in products beyond those currently in production.

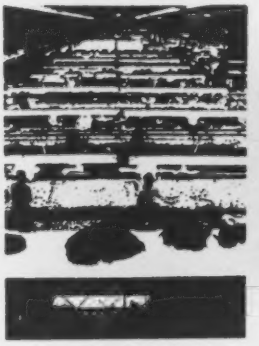
Again, it must be said that our most important asset is our people. The spirit of cooperation that starts with the Board of Directors and continues throughout all of the workforce, has been the driving success factor at Devils Lake Sioux Manufacturing Corporation. I am proud to have been associated with each person for the past 13 years.

In the future, we will be attempting many things for the betterment of DLSMC, and one of the considerations is to show that each person "is" DLSMC, and each person "can" be counted on.

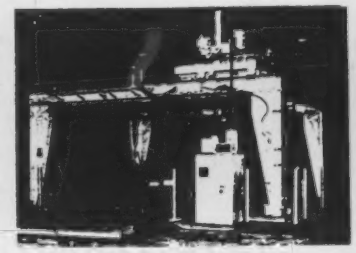
B. J. Richmond
Vice President

1986 — Planning For The Future

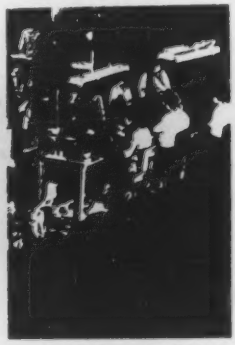
The year 1986 was indeed the best ever for Devils Lake Sioux Manufacturing Corporation. We could not have been more pleased with our sales and profits picture. For the year, sales were $70.6 million, an increase of 14% over 1985 sales. We had profits of $7.7 million which represented an increase of 18.7% over 1985.



Camouflage production.



Installation of Robotic Gantry in preparation of composite production.



Helmet production.

DLSMC has enjoyed tremendous growth in the 13 years it has been in operation, generating sales that have far exceeded our goals. With this rapid growth, long range business plans have indicated that we would experience a slight downturn in 1987 and beyond. This is due to many factors. In October of 1986, DLSMC graduated from the Small Business Minority 8(a) Set-Aside Program, in which the Company was guaranteed contracts as a minority business. Well aware that this time was coming, DLSMC has been positioning itself to be a competitor on the open market and has successfully been awarded contracts solely on that basis.

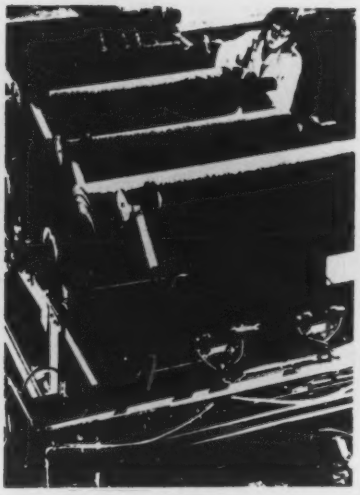
Secondly, we face increasing competition. We have found, however, that by working harder and smarter, we can meet the competition. We anticipate that camouflage will be a good business for us as long as we keep abreast of the changes that will undoubtedly occur in the radar and color properties of this product.

Our helmet business continues to be a strong and vital part of our sales, but again we are faced with the challenge of intense competition. Through strong efforts to eliminate waste we have effectively met that challenge while producing a high quality, low-cost helmet. Our capability to produce the Army PASGT helmet has provided us with an avenue to explore and expand our technology base in the area of molded composites. We are excited about this venture and are committed to this new and growing demand. The Company has been investing in its facilties and engineering personnel for the research and development of composites and ballistic armor. Composite armor will, in the future, become a significant part of our business base and DLSMC is aggressively pursuing contracts involving this type of technology.

Diversification does not come without a price but our future hinges at least in part on our ability to make other products.

While 1986 goes on record as the best ever for DLSMC, it has not clouded our view of the future. Many changes and challenges lay ahead; however, solid planning and preparation have paved the way for an optimistic future. Presented with the need to change, our employees have responded to the test every time. Coupled with this commitment, and trust in management to address these changes, the future of DLSMC is bright.

Camouflage — Another Year of Growth

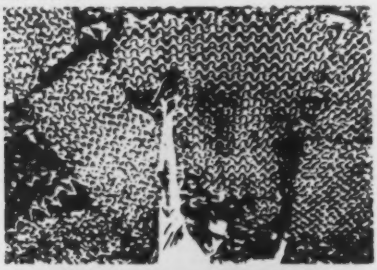


Color coated cloth being cut.

Camouflage was once again the largest contributor to DLSMC's new sales records. In 1986, 72,151 equivalent screen systems were shipped, which was a slight increase over the previous record set in 1985 of 72,100 equivalent systems. Two support systems contracts were completed in December of 1986, bringing total shipments for 1986 to 87,949 systems. This was a 40% increase over 1985's record mark of 62,970 systems.

Total camouflage sales for 1986 were $47,766,568. This record mark exceeds the 1985 sales figure of $42,958,678 by 11.2%.

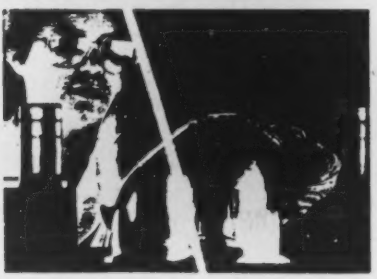
In 1986, DLSMC was awarded three camouflage contracts, the first for 764 spares totaling $215,853. The second was for 1835 assorted spares as well as 396 repair kits and totaled $588,752. The last contract awarded was for a multi-year delivery of 90,000 WRS Screen Systems which totaled $38,070,000.



An Assembler secures a pattern under the attach machine.

Helmets — Shipments Increase 42%

Production and sales of the PASGT helmets showed substantial gains in 1986. DLSMC shipped in excess of 294,000 helmets which generated sales of $22.6 million. These figures far exceed the previous records set in 1985 of 208,000 units totaling $18.7 million.



Anita Black removes a helmet from the mold.

Gilbert Peltier edges a helmet.

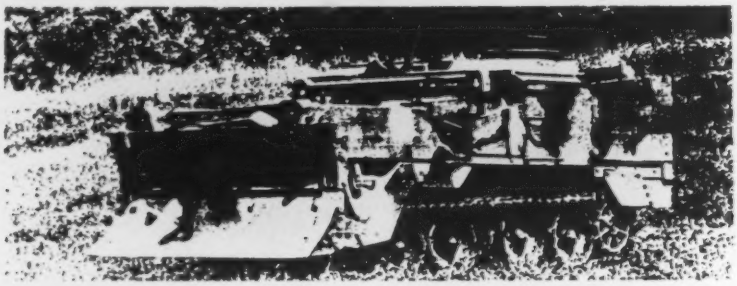
Production of helmets took a large step toward achieving self-sufficiency in 1986. Additional weaving equipment was added enabling DLSMC to fulfill cloth requirements without needing to purchase the services of outside sources.

In 1986, DLSMC was awarded a contract for 100,000 helmets which will generate $8,499,000; we shipped 32,000 units on this contract at year end.

Composite Armor — Planning For the Future

In November 1986 DLSMC received a subcontract to provide composite armor components for the U.S. Army's new M9 Armored Combat Earthmover (ACE). The subcontract from the BMY Corporation calls for delivery of armor components for 22 vehicles in 1987 with other deliveries stretching out for an additional five years. This contract was the first DLSMC had received for production of a product that will become an important part of our sales in the near future.

Composite armor is designed to provide ballistic protection for the operators and vehicles. The technology used to make the new components is made possible by the Company's capability to produce the PASGT Helmet. Kevlar yarn is woven and coated, but unlike the helmet, is molded in flat panels. These panels are designed to attach to the inside of the driver's compartment, along the front and side of the engine, and around the fuel tank of the ACE. If the vehicle is hit on the side, the panels will catch shrapnel that could knock out a vital function and stall the machine.



DLSMC will produce the armor components for the U.S. Army's M9 Armored Combat Earthmover (ACE).

Devils Lake Sioux
Manufacturing Corporation

Results of Operations

for the years ended December 31

NET SALES	$70,600,454	$61,741,213
COST OF SALES (Note 3)	54,750,239	47,142,059
Gross margin	$15,850,215	$14,599,154
OTHER OPERATING EXPENSES:		
General and administrative	$ 2,039,129	$ 1,870,498
Consulting fee to Brunswick Corporation (Note 3)	1,435,771	1,271,905
Marketing and advertising	61,660	5,790
Operating income	$12,313,655	$11,450,961
GAIN ON SALE OF INVESTMENTS	705,217	-0-
INTEREST AND OTHER INCOME net	1,338,841	1,268,092
Earnings before income taxes	$14,357,713	$12,719,053
PROVISION FOR INCOME TAXES (Notes 1 and 7)	6,626,100	6,207,000
Net earnings	$ 7,731,613	$ 6,512,053
Net earnings per share (Note 1)	$7.732	$6.512

Retained Earnings

for the years ended December 31

	1986	1985
BALANCE AT JANUARY 1	$19,501,190	$14,589,137
Add - Net earnings	7,731,613	6,512,053
	$27,232,803	$21,101,190
Cash dividends declared and paid, $2,225 and $1,600 per share in 1986 and 1985, respectively	(2,225,000)	(1,600,000)
Cash dividend declared and payable Mar. 31, 1987, $312.50 per share	(312,500)	
BALANCE AT DECEMBER 31	$24,695,303	$19,501,190

Balance Sheets

as of December 31

Assets	
CURRENT ASSETS	
Cash	
Certificates of deposit	
Investments, at cost which approximates market (Note 10)	
Interest income receivable	
Accounts receivable	
Receivable from the Devils Lake Sioux Tribe (Note 4)	
Inventories (Note 1)	
Prepaid expenses	
Total current assets	
PROPERTY, PLANT AND EQUIPMENT at cost (Note 1):	
Building	
Equipment	
Less - Accumulated depreciation	
Net property, plant and equipment	
OTHER ASSETS – prepaid income taxes	
Total assets	
Liabilities and Shareholders'	
CURRENT LIABILITIES	
Accounts payable (Note 3)	
Accrued expenses (Note 3)	
Dividend payable	
Income Taxes -	
Current	
Deferred	
Total current liabilities	
DEFERRED INCOME TAXES	
SHAREHOLDER'S EQUITY	
Common stock, without par value; 1,000 shares authorized, issued and outstanding	
Contributed capital (Note 9)	
Retained earnings	
Total shareholders' equity	
Total liabilities and shareholders' equity	

	$ 4,986,195	$ 4,128,192
	500,000	1,600,000
	18,587,403	11,498,437
	246,075	264,676
	7,225,306	8,039,089
	221,567	200,000
	9,844,456	12,509,313
	142,274	15,218
	$41,753,306	$38,253,925
	$ 4,857,704	$ 4,794,093
	4,246,011	3,623,912
	$ 9,103,715	$ 8,418,005
	(4,031,099)	(3,297,608)
	$ 5,072,616	$ 5,120,397
	$ 139,608	$ -0-
	$46,965,530	$43,374,322

Equity

	$ 5,599,538	$10,291,567
	2,698,212	2,332,027
	312,500	-0-
	5,918,886	3,233,688
	5,641,091	6,312,230
	$21,170,227	$22,169,512
	$ -0-	$ 653,620
	$ 100,000	$ 100,000
	1,000,000	950,000
	24,695,303	19,501,190
	$25,795,303	$20,551,190
	$46,965,530	$43,374,322

Changes in Financial Position

for the years ended December 31

SOURCES OF WORKING CAPITAL		
From operations -		
Net earnings	$7,731,613	$8,512,053
Depreciation	772,329	836,761
Working capital provided from operations	$8,503,942	$7,348,814
Contributed capital	50,000	450,000
Other	18,359	7,291
Total sources of working capital	$8,572,301	$7,806,105
USES OF WORKING CAPITAL		
Capital expenditures	$ 742,907	$1,596,882
Dividends paid and payable	2,537,500	1,600,000
Deferred income taxes, net	793,228	918,323
Total uses of working capital	$4,073,635	$4,115,205
Increase in working capital	$4,498,666	$3,690,900
CHANGES IN WORKING CAPITAL		
Increase (decrease) in current assets -		
Cash, certificates of deposit, investments and interest income receivable	$6,826,366	$7,694,217
Receivable	(791,196)	4,131,732
Inventories	(2,864,847)	5,339,293
Prepaid expenses	127,056	(1,095)
(Increase) decrease in current liabilities -		
Accounts payable and accrued expenses	4,325,844	(8,677,111)
Dividend payable	(312,500)	-0-
Income taxes -		
Current	(3,685,198)	(2,636,304)
Deferred	671,139	(3,159,832)
Increase in working capital	$4,498,666	$3,690,900

The accompanying notes are an integral part of these balance sheets.

Notes to Financial Statements

December 31, 1986 and December 31, 1985

1

Summary of Accounting Policies

LONG-TERM CONTRACTS

For financial reporting purposes, sales and costs under long-term contracts are recorded in results of operations upon government acceptance or as shipments are made and related costs are incurred.

For tax purposes, such sales and costs are recognized as the contracts are completed for contracts entered into prior to 1986. For contracts entered into after February 28, 1986, 40% of the sales and costs are recognized on a percentage of completion method and the remaining 60% are recognized as the contracts are completed.

INVENTORIES

Inventories are valued at the lower of first-in, first-out (FIFO) cost or market (replacement cost or net realizable value) and are reduced by progress payments, received from the U.S. Government, of $1,570,813 as of December 31, 1985. There were no progress payments at December 31, 1986. Inventory cost includes material, labor and manufacturing overhead. Certain preproduction and tooling expenses are also included in inventory and will be amortized to cost of sales as the units of inventory are shipped.

PROPERTY

Property (including major improvements) is recorded at cost. The cost of maintenance and repairs is charged against results of operations as incurred.

Depreciation is charged against results of operations over the estimated service lives of the related assets. For financial reporting purposes, the straight-line method of depreciation is used for the building and accelerated methods are used for equipment. For tax purposes, accelerated methods of depreciation are used for all property.

INCOME TAXES

The provision for incomes taxes is based on earnings reported in the financial statements. Investment tax credit is treated as a reduction of the current provision for income taxes.

The tax effect related to the differences in the time certain income and expenses are recognized in results of operations and when they are recognized for tax purposes is reflected in the financial statements as prepaid or deferred income taxes.

PENSION PLANS

Devils Lake Sioux Manufacturing Corporation (the Company) accrues costs of pension plans which cover substantially all employees. The Company's policy is to fund substantially all accrued pension costs on a current basis.

EARNINGS PER SHARE

Earnings per share are based on the average number of shares outstanding during each year.

2

Company Ownership

The Company is owned 51% by the Devils Lake Sioux Tribe (the Tribe) and 49% by Brunswick Corporation (Brunswick). Members of the Tribe comprise the majority of the Company's directors.

Effective October 6, 1982, the 1973 agreement between the Company, the Tribe and Brunswick was amended to provide that the Tribe have the continuing right to purchase 98 shares of stock in Devils Lake Sioux Manufacturing Corporation held by Brunswick as of each November 1, 1983 through 1987 at the current book value of the stock. The Tribe has not exercised any of the annual purchase options.

3

Transactions with Brunswick Corporation

Under a consulting services agreement with Brunswick, the Company reimburses Brunswick for certain costs of consulting, marketing services and support staff which Brunswick provides. The reimbursed costs were $363,116 and $282,901 in 1986 and 1985, respectively. The Company also pays Brunswick a fee based on earnings before income taxes. The fee was $1,435,771 and $1,271,905 in 1986 and 1985, respectively. The full amount of the fees is included in accrued expenses at the respective year-end dates.

Raw materials purchased from Brunswick amounted to $15,279,877 in 1986 and $14,389,478 in 1985 and

accounts payable included $573,588 and $1,710,270 at December 31, 1986 and 1985, respectively, due to Brunswick for such purchases. At December 31, 1986, the Company had a raw material purchase commitment to Brunswick for $22,715,000.

Certain of the Company's insurance and shipping requirements are handled through Brunswick.

4

Transactions with The Devils Lake Sioux Tribe

The Company leases, from the Tribe, the land on which the Company's principal facilities are located at a rental of one dollar per year until 1998. The lease includes a renewal option for an additional 25-year period on the same terms.

The Company has made various loans to the Tribe during 1985 and 1984. The terms and amounts of these loans follow:

DATE	AMOUNT	INTEREST RATE	MATURITY DATE
October 22, 1984	$350,000	6.00%	May 21, 1985
January 10, 1985	200,000	6.00%	May 21, 1985
December 17, 1985	200,000	10.00%	May 20, 1986
March 21, 1986	150,000	10.00%	May 20, 1986
December 12, 1986	95,000	7.35%	Dec. 31, 1986
December 12, 1986	95,000	7.35%	April 1, 1987

All loans with maturity dates in 1985 and 1986 were repaid on the maturity date.

During 1986, the Company granted a revolving line of credit in the amount of $1,000,000 to the Devils Lake Sioux Tribe to further Tribal goals. Any borrowings on this line of credit bear an interest rate equal to one-fourth (¼) of one (1) percent over the prime rate in effect, as published by the First National Bank of Chicago. Interest is calculated on the average monthly balances of the balance outstanding. As of December 31, 1986, the Company had loaned $126,587 to the Tribe, under this line of credit.

As collateral for the payment of principal and interest on the loan and revolving line of credit outstanding as of December 31, 1986, the Tribe has granted the Company a security interest in all dividends the Company may declare payable to the Tribe.

5

Government Contracts

The Company's primary business is the production of camouflage systems and PASGT helmets for the U. S. Government.

The Company continued production under camouflage system contracts awarded in 1983 and 1984 which provide for production of 215,000 units through April, 1987.

In May, 1985, the Company was awarded a new camouflage system contract for 7,123 complete units. In June, 1985, the Company was awarded a new camouflage contract for 1,292 spare units. The delivery schedule for these contracts was completed in 1986.

In September 1986, the Company was awarded a new camouflage contract for 90,000 units for delivery from May, 1987 through October, 1989. The government, in December 1986, exercised an option for an additional 1,514 units under this contract.

In September, 1985, the Company was awarded a new helmet contract for 300,000 units to be produced through December, 1986. In October 1986, the government exercised an option for an additional 100,000 helmets for delivery through April, 1987.

6

SBA Program Status

The Company was a participant in the U. S. Small Business Administration's (SBA) Minority Small Business and Capital Ownership Development Program (the 8(a) program). The 8(a) program assists minority businesses by setting aside, and awarding to them, government contracts for which they otherwise might not be competitive. The SBA has enacted regulations which require companies to negotiate a "Fixed Program Participation Term" (FPPT) to establish a limitation on the terms of participation in the 8(a) program.

On October 12, 1986, the Company's participation in the 8(a) program expired with the passing of the date of the FPPT. Management is of the opinion that the loss of 8(a) status will not have a material effect on the financial statements.

7

Provision for Income Taxes

The provision (benefit) for income taxes consisted of the following:

	1986	1985
Current —		
Federal	$ 7,052,700	$ 3,744,200
State	1,041,700	602,000
	$ 8,094,400	$ 4,346,200
Deferred —		
Federal, Long-term contracts	$(1,372,500)	$ 1,775,100
Other	40,100	(72,300)
State, Long-term contracts	(313,300)	405,200
Other	177,400	(247,200)
	$(1,468,300)	$ 1,860,800
Provision for income Taxes	$ 6,626,100	$ 6,207,000

The Federal corporate income tax rate reconciles to the effective tax rate as follows:

	1986	1985
Federal corporate income tax rate	46.0%	46.0%
State income taxes, net of Federal income tax benefit	3.4	3.2
Investment Tax credits	(.1)	(.2)
Tax exempt interest income	(2.4)	(.2)
Capital gains tax rate benefit	(.8)	—
Other, net	.1	—
Effective tax rate	46.2%	48.8%

8

Pension Plans

Effective January 1, 1981, the Company established separate salaried and hourly pension plans for the employees of the Company. Pension expense totaled $182,750 and $216,038 for 1986 and 1985, respectively, which represents the total of normal costs plus amortization of the unfunded accrued liability over an average period of 17 and 18 years for salaried employees and 25 and 26 years for hourly employees. The assumed rate of return used for actuarial computations was 7½%.

As of January 1, 1985, the most recent actuarial benefit information date, the accumulated pension plan benefits consisted of:

Actuarial present value of —	
Vested benefits	$173,403
Nonvested benefits	263,592
Total benefits	$436,995
Net assets available for benefits	$820,522

9

Contributed Capital

The Company received grants totaling $50,000 and $450,000 through a grant program administered by the Economic Development Administration of the United States Department of Commerce in 1986 and 1985, respectively. These amounts have been recorded in the caption entitled "Contributed capital" in the balance sheet as of December 31, 1986. The grant funds were used to partially fund the construction of a building addition to the Company's manufacturing facility in 1986 and 1985.

10

Investments

Investments consist primarily of tax-exempt securities and are stated at the lower of aggregate cost or market. As of December 31, 1986, market value of the investments was $18,651,771. As of December 31, 1985, market value of the investments approximated their cost. The Company recognizes gains and losses upon the sale of investments based on the specific identification method.

11

Purchase Commitments

At December 31, 1986, the Company had outstanding purchase commitments for various helmet and camouflage raw materials aggregating approximately $2,752,000 exclusive of purchase commitments reported in Note (3).

Auditor's Report

ARTHUR ANDERSEN & Co.
CHICAGO, ILLINOIS

To the Shareholders of

Devils Lake Sioux
Manufacturing Corporation:

We have examined the balance sheets of DEVILS LAKE SIOUX MANUFACTURING CORPORATION (a North Dakota corporation) as of December 31, 1986 and 1985, and the related statements of income and retained earnings and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Devils Lake Sioux Manufacturing Corporation as of December 31, 1986 and 1985, and the results of its operations and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Chicago, Illinois
February 26, 1987

Arthur Andersen & Co.

Historical Financial Summary

(dollars in thousands)

	year ending December 31			as of December 31		Company ownership	
Calendar Year	Net Sales	Net Earnings	Dividends Paid	Total Assets	Shareholders' Equity	Devils Lake Sioux Tribe	Brunswick Corporation
1986	70,600	7,732	2,225	46,966	25,795	51%	49%
1985	61,741	6,512	1,600	43,374	20,551	51%	49%
1984	50,132	5,164	1,250	24,457	15,189	51%	49%
1983	32,962	3,313	1,250	20,889	11,275	51%	49%
1982	33,820	3,298	1,000	15,411	8,712	51%	49%
1981	26,017	1,750	1,000	11,281	6,414	51%	49%
1980	21,530	1,370	600	7,830	5,663	51%	49%
1979	18,746	1,010	800	5,851	4,894	51%	49%
1978	16,546	1,343	400	6,492	4,684	51%	49%
1977	16,748	1,677	200	5,577	3,740	49%	51%
1976	14,225	1,347	-	5,159	2,263	43%	57%
1975	16,645	604	-	3,397	916	37%	63%
1974	5,217	212	-	2,768	312	30%	70%

Devils Lake Sioux
Manufacturing Corporation

Ft. Totten
North Dakota 58335
Tel: 701/766-4211
FAX: 701/766-4359

Board of Directors and Officers

DIRECTORS

Carl McKay
Stanley Cavanaugh
Herbert E. Ennis
Sam Merrick
B. J. Richmond
R. Murray
Carl Walking Eagle
Demus McDonald
Robert Sigrist

OFFICERS

Carl McKay
Chairman
Rex Moore
President
B. J. Richmond
Vice President
Fred Fugate
Treasurer
Gary Halverson
Secretary
Frank S. Myrick
Asst. Secretary

A & S TRIBAL INDUSTRIES

SELECTED HISTORICAL FINANCIAL DATA

($000 omitted)

YEAR	SALES	NET EARNINGS	PAYROLL
1975	$ 1,806	$ 110	$ 509
1976	5,037	789	773
1977	4,233	850	675
1978	3,791	916	783
1979	3,760	950	799
1980	4,027	855	1,082
1981	5,220	996	1,341
1982	8,858	285	3,014
1983	13,377	135	4,121
1984	17,397	1,774	5,109
1985	20,955	2,536	6,638
1986	19,936	712	7,095
1987	17,570	1,249	6,090

TESTIMONY
ON NATIVE AMERICAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING

BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

THE HONORABLE DANIEL INOUYE
CHAIRMAN

BY

MR. MURRAY E. TOWILL
DEPUTY DIRECTOR
OFFICE OF STATE PLANNING
STATE OF HAWAII

WASHINGTON, D.C.
FEBRUARY 23, 1988

Mr. Chairman, and members of the Senate Select Committee on Indian Affairs, thank you for the opportunity to testify today.

I will try to provide a brief overview of economic development in Hawaii and some of the factors and trends that may be relevant to your deliberations.

The Hawaiian economy is dominated by four basic industries - the tourist industry, defense expenditures, sugar industry and pineapple industry. Together, these industries in 1985 accounted for 44% of Hawaii's $16.7 billion Gross State Product. Tourist expenditures alone accounted for $4.9 billion or 29% of the Gross State Product. The dominance and importance of the tourist industry can also be recognized by the fact that in 1986 over 5 million visitors came to our islands while our year-round population was just over 1 million people (1,062,344).

Hawaii also lacks the basic raw materials that have been typically associated with economic development. We lack traditional natural resources or a large population base for either market or production purposes. Our natural resources are our people, our climate, and our geographical and topographic characteristics. We are trying to utilize these resources to our advantage in diversifying our economy. Some specific examples include the expansion of astronomy activities on Mauna Kea; exploring the development of satellite launch facilities to take advantage of our locations near the equator; the development of alternative energy

activities including OTEC (Ocean Thermal Energy Conversion) and Geothermal; Ocean resource development, and promotion of a variety of agricultural and aquacultural opportunities.

In the short run, none of these activities will play major roles in our economy but they are necessary steps toward diversification. The importance of diversification is constantly reinforced as we see our sugar cane and pineapple industries adversely affected by foreign competition.

As you can see, we lack the traditional natural resources that accompany manufacturing operations. In recent years, the manufacturing sector of our economy has been in decline. This is largely the result of consolidation and cutbacks in sugar and pineapple processing activities. About 45% of our manufacturing employment is in food processing, and sugar and pineapple reductions are thus significant.

Our lack of a major manufacturing sector can be seen in the fact that in 1984 Hawaii was the forty-seventh ranked state in manufacturing employment as a percentage of total employment. Manufacturing accounted for only 5.3% of employment in Hawaii versus the national average of 20.6%.

Hawaii, however, ranked fourth in service employment as a percentage of total employment. Over 26 percent versus a national average of 22 percent of jobs in Hawaii were in services. This is very consistent with the dominance of the visitor industry. In recent

years, the real growth areas of our economy have been the service and trade sectors. Retail and hotel employment were two of the major increase areas.

Although the increase in service employment has been a national trend, our economy has been especially impacted. The real impact is in wage levels where the generally lower wage levels of the service sector accompanied by the high cost of living in Hawaii have hurt our citizens.

A final point I believe relevant to your deliberations is the size of business establishments in Hawaii. We have been characterized as a small business state. This is evidenced by the fact that according to the U.S Census seventy-five percent of the 25,093 business establishments in the state in 1984 had nine (9) or fewer employees. This is contrasted to the forty-nine (49) firms with more than five hundred (500) employees. We anticipate the small businesses will continue to be the ones that provide the greatest employment growth in the future.

As I believe you saw in Governor Waihee's and Ms. Piianaia's testimony, assistance in federal procurement can help as part of an overall strategy to help Hawaiians. It is also consistent with our experience that small businesses can and should play a major role in Economic Development. Once again, I would like to thank you for this opportunity to testify.

DANIEL K. INOUYE, HAWAII, CHAIRMAN
DANIEL J. EVANS, WASHINGTON, VICE CHAIRMAN
JOHN MELCHER, MONTANA
OMAHAS DeCONCINI, ARIZONA
QUENTIN N. BURDICK, NORTH DAKOTA
THOMAS A. DASCHLE, SOUTH DAKOTA
FRANK H. MURKOWSKI, ALASKA
JOHN McCAIN, ARIZONA
ALAN R. PARKER, STAFF DIRECTOR
PATRICIA M. ZELL, CHIEF COUNSEL
JOE MENTOR, JR., MINORITY COUNSEL

United States Senate
SELECT COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450

April 5, 1988

Mr. Murray E. Towill
Deputy Director
Office of State Planning
Office of the Governor
State Capitol
Honolulu, Hawaii 96813

Dear Mr. Towill:

This is to acknowledge receipt of the employment data submitted by letter dated March 17, 1988, supplementing your hearing testimony of February 23rd. You can be assured this information will be included in the hearing record. Thank you for your prompt response.

In addition, I want you to know we are working with the Small Business Committee for some kind of Hawaiian preference. As of this date, we are still awaiting the Committee's response.

In the meantime, enclosed for your information is a copy of the letter the Committee on Indian Affairs submitted to the Small Business Committee. The letter is a solicitation of support for an economic development proposal. The letter also requests that the Small Business Committee incorporate changes into S. 1993 or other legislation to amend the Small Business Act, to include the 5% contractors incentive, as well as clarifications to 8(a) program eligibility.

Sincerely,

DANIEL K. INOUYE
Chairman

enclosure

DANIEL K. INOUYE, HAWAII, CHAIRMAN
DANIEL J. EVANS, WASHINGTON, VICE CHAIRMAN

JOHN MELCHER, MONTANA
DENNIS DECONCINI, ARIZONA
QUENTIN N. BURDICK, NORTH DAKOTA
THOMAS A. DASCHLE, SOUTH DAKOTA

FRANK H. MURKOWSKI, ALASKA
JOHN MCCAIN, ARIZONA

ALAN R. PARKER, STAFF DIRECTOR
PATRICIA M. ZELL, CHIEF COUNSEL
JOE MENTOR, JR., MINORITY COUNSEL

United States Senate
SELECT COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-6450

March 17, 1988

The Honorable Dale Bumpers
Chairman
Senate Committee on Small Business
428A Senate Russell Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The lack of economic opportunity is probably the single most severe problem facing Native Americans. The Select Committee on Indian Affairs has focused much of its attention on seeking solutions to this problem and we are writing to ask your assistance and support for an economic development proposal for American Indians, Native Hawaiians and Native Alaskans.

On February 23 our committee held a hearing on "Barriers to Native American Participation in Government Procurement Contracting". From this and other hearings the Committee held last year we have been able to develop a record on the problems that confront Native Americans who desire to participate in government procurement contracting and proposed solutions. As part of your consideration of S. 1993 or other legislation to amend the Small Business Act, we are requesting that you consider incorporating the following changes in the law, which are based on recommendations made by Native Americans to the Senate Select Committee on Indian Affairs:

(1) Provide an incentive for prime contractors to subcontract with Indian and Hawaiian firms by authorizing payment of an additional 5% to the cost of the subcontract.

This would allow prime contractors to recover the extraordinary costs of developing business relationships with Indian and Hawaiian firms which are not otherwise reimbursable under their contracts. The Small Business Administration should be directed to insure that only businesses located on Indian reservations or in Native Alaskan or Hawaiian communities are eligible and that the total incentive payments governmentwide do not exceed $25 million. In addition to making available significant business opportunities for impoverished Indian, Native Alaskan and Hawaiian communities, this legislative proposal is based on the government's longstanding trust responsibilities toward these people. This trusteeship has been recognized as the legal foundation for special legislation that provides Native Americans a status which is quite distinct from other ethnic and minority groups.

(2) Clarify the eligibility and status of tribally owned enterprises under the 8(a) program.

There are unique legal considerations that affect the structure and operation of business enterprises which are established by Indian Tribes. Unlike other 8(a) entrepreneurs that seek more traditional benefits of business ownership, tribal business enterprises are managed such that they will have a maximum beneficial economic impact in the reservation community. Given this background, the following authorizations for Tribal 8(a) enterprises are recommended:

(a) Permit contracting by tribally-owned 8(a) certified enterprises operating as a joint venture;

(b) Exempt 8(a) tribal enterprises from the "once in a lifetime" rule; and

(c) Create national and regional SBA Indian desks.

In our consideration of these matters it was clearly acknowledged that the Indian Affairs Committee does not have legislative jurisdiction over the Small Business Act. On the other hand, we know how occupied you have been with S. 1993 and other pressing issues that are before your committee. For this reason we hope that our initiative to develop a hearing record on these proposals will be helpful to you as you consider the issues of Indian, Native Alaskan and Hawaiian economic opportunity in the context of your markup on S. 1993.

We appreciate your consideration of this request and look forward to discussing it further with you.

Sincerely,

DANIEL K. INOUYE
Chairman

DANIEL J. EVANS
Vice-Chairman

JOHN MCCAIN
Member

DENNIS DECONCINI
Member

QUENTIN N. BURDICK
Member

OFFICE OF STATE PLANNING
Office of the Governor
JOHN WAIHEE, Governor
STATE CAPITOL, HONOLULU, HAWAII 96813 TELEPHONE: (808) 548-3893

March 17, 1988

The Honorable Daniel K. Inouye
United States Senate
Chairman
Select Committee on Indian Affairs
722 Hart Senate Office Building
Washington, D. C. 20510-6450

Dear Senator Inouye:

The attached information will answer the following two questions that were raised during my testimony on February 23, 1988, before your Select Committee on Indian Affairs:

(1) What States ranked below Hawaii in manufacturing employment, and

(2) How does the Hawaiian ethnic group compare to the rest of the State's population in unemployment and poverty States?

I have also enclosed data on Hawaii's ranking when we look at the number of manufacturing jobs. In this ranking, Hawaii turns out to be number 45.

The attached 1980 Census information provides the latest figures that breakout the unemployment rate by race. The most recent unemployment rate for the State is a January 1988 figure of 3.9%.

Should you need more information, please feel free to call on me.

Sincerely,

Murray E. Towill

Murray E. Towill
Deputy Director

Attachment
cc: Select Committee on Indian Affairs

1984 TOTAL MANUFACTURING EMPLOYEES

State	No. of Employees	Ranking
Hawaii	23,000	45
Montana	22,000	46
Nevada	19,000	47
North Dakota	14,000	48
Alaska	9,000	49
Wyoming	9,000	50

Source: State and Metropolitan Data Book, Department of Commerce, 1986

1984 MANUFACTURING EMPLOYEES AS PERCENT OF NON AGRICULTURAL EMPLOYMENT

State	Percent	Ranking
Hawaii	5.3	47
Alaska	5.0	48
Nevada	4.9	49
Wyoming	4.2	50

Source: State and Metropolitan Data Book, Department of Commerce, 1986

1980 UNEMPLOYMENT/POVERTY

	Hawaiians	Total
% Unemployed	6.9%	4.7%
Poverty Status		
Families	15.1%	7.8%
Persons	15.4%	9.9%

Source: 1980 Census, General and Social Economic Characteristics

TESTIMONY

ON NATIVE AMERICAN PARTICIPATION IN GOVERNMENT PROCUREMENT CONTRACTING

BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

The Honorable Daniel K. Inouye
Chairman

By

Ms. Ilima A. Piianaia, Chairman
Hawaiian Homes Commission
State of Hawaii

Washington, D. C.

February 23, 1988

Mr. Chairman, and members of the Senate Select Committee on Indian Affairs.

I am Ilima Piianaia, Chairman of the Hawaiian Homes Commission. I appreciate your kind consideration in providing this opportunity to testify on Native American participation in government procurement contracting.

Since western contact in 1778, the rate of changes that occurred in Hawaii has been very rapid. In the short span of 200 years there was a complete change in many Hawaiian institutions and practices. The feudal system was replaced by a monarchy, provisional government, U. S. Territory and Statehood. Hawaiian religious beliefs and cultural practices were condemned at various periods. The Hawaiian subsistence economy and control of its lands were similarly replaced by a plantation, capitalist economy. The concept of land ownership was introduced and in the process, native Hawaiians lost tenure to and use of much of the lands. Native Hawaiians were no longer the dominant force, but instead, were displaced and not part of the rapid changes. The changes that occurred were ideologically at odds with Hawaiian culture and practices. The changes that were introduced and the assault on long-held

beliefs, values and practices led to a loss of will and the native Hawaiian population declined dramatically. The effects of these rapid changes are evident today.

In the early 1900s, the U. S. government recognized concerns about the declining number of native Hawaiians in the Territory. The Hawaiian Homes Commission Act was passed by the U. S. Congress in 1921. An estimated 187,413 acres of lands were set aside and a homesteading program established for the benefit of native Hawaiians. Title to Hawaiian Home Lands and program responsibilities were transferred to the State of Hawaii upon its entry into the Union in 1959. (See Exhibit "A")

Progress has been made in many areas affecting native Hawaiians since that time, due in part to the efforts of our department and sister Hawaiian agencies, both public and private, such as Kamehameha Schools/Bishop Estate, Alu Like, Inc., the Office of Hawaiian Affairs, and others. While federal and State support has been instrumental in bettering the lives of native Hawaiians, much still remains to be done. (See Exhibit "B")

One area that requires further attention is native Hawaiian business development and entrepreneurship. Native Hawaiians rank very low in terms of business ownership and self-employment. Although Native Hawaiians comprised 18% of the

State population in 1982, only 5.4% of minority-owned business were native Hawaiian. Compared to other minority-owned businesses, native Hawaiian businesses were significantly smaller in terms of average number of employees (3.3 to 8.4), average annual payroll ($24,000 to $104,000), and average annual gross receipts ($140,000 to $679,000) per firm. (See Exhibit "C")

The homesteading program provides a method to increase the economic self-sufficiency of native Hawaiians through the provision of land. Our homestead farmers and ranchers contribute to the State's agricultural economic sector. The department also disposes of its lands by way of general leases for commercial, industrial, agricultural, and other uses. Since 1978 the State Constitution has authorized and the Hawaiian Homes Commission has implemented a policy of making these general leases available to native Hawaiians prior to disposition to the general public by way of auction. These actions are intended to make opportunities for native Hawaiians to be participants in and contribute to the economic development of our island state. The land base set aside by the Hawaiian Homes Commission Act is but one opportunity for native Hawaiian economic development. A native Hawaiian business infrastructure is needed, that is, one that includes financing, business consulting services, education, marketing and promotion.

I support this proposal for a 5% incentive payment for prime contractors who give subcontracts to native Hawaiian enterprises. This would be a positive step in the right direction. It would provide an incentive for native Hawaiians to participate in these programs. It would foster business relationships between prime contractors and native Hawaiian subcontractors which may result in long-term and mutually beneficial arrangements. The proposal could make the difference for someone to succeed in business or not.

The primary mission of the Hawaiian Homes Commission continues to be its homesteading program, however, we feel that the promotion of native Hawaiian business development will have positive benefits for the entire Hawaiian community and society in general. We support the proposed incentive program as a means to advance native Hawaiian business development and participation in government procurement contracting programs.

EXHIBIT "A"

Background of the Hawaiian Homes Commission Act (HHCA)

The HHCA was passed by the U.S. Congress and signed into law by President Woodrow Wilson on July 9, 1921. It set aside certain lands of the Territory of Hawaii as Hawaiian Home Lands, and established a homesteading program to provide for the rehabilitation of native Hawaiians, that is, persons of at least 50% Hawaiian blood.

The HHCA was enacted to address concerns over the declining number of native Hawaiians in the Territory and their economic plight. Population data showed the number of native Hawaiians had decreased from an estimated 142,650 in 1826 to 22,600 in 1919; and many native Hawaiians were jobless, homeless, and driven to live in or near urban areas to seek cheap shelter.

When Hawaii became a State in 1959, the Admission Act (Act of March 18, 1959, Pub L 86-3, 73 Stat 4), inter alia:

(1) Transferred title to all Hawaiian Home Lands to the State. (Section 5)

(2) Required that, as a compact with the United States relating to the management and disposition of Hawaiian Home Lands, the HHCA be adopted as a provision of the Hawaii State Constitution. (Section 4)

(3) Required that amendments to or repeal of provisions of the HHCA be made only with the consent of the United States, except for amendments to provisions that relate to administration of the HHCA or that increase benefits to lessees of the HHCA. The Admission Act specifically provided that qualifications of lessees shall not be changed except with the consent of the United States. (Section 4)

The Department of Hawaiian Home Lands

The HHCA is administered by the Department of Hawaiian Home Lands (DHHL), one of 18 executive agencies of the State of Hawaii. The Department is headed by an executive board known as the Hawaiian Homes Commission, whose eight members are appointed by the Governor with the advice and consent of the State Senate. The Chairman of the Commission serves as the full-time administrator of the DHHL.

Pursuant to provisions of the HHCA, the DHHL provides benefits to native Hawaiians in the form of 99-year homestead leases at an annual rental of $1. The DHHL also provides lessees with loans and loan guarantees for home construction, home repair or replacement, farming, and ranching. In addition, DHHL provides technical assistance to farmers and ranchers, maintains roads and facilities in homestead districts, and operates or provides for water systems. The homesteading program aims to increase the economic self-sufficiency of native Hawaiians through the provision of land.

Hawaiian Home Lands are located on the islands of Oahu, Kauai, Molokai, Maui, and Hawaii, with a total estimated acreage of 187,413. Of that total, 32,713 acres had been awarded as homestead lots for residential, agricultural, or pastoral (ranching) uses as of June 30, 1987.

Table 1 provides a tabulation of the distribution of Hawaiian Home Lands by islands and by their present use. Table 2 shows the distribution of homestead leases by islands and by types of leases.

The DHHL also manages real property not used for homesteading purposes by awarding general leases, licenses, and issuing permits for commercial, industrial, and other uses. Revenues from income-producing land are used to meet DHHL operating costs. Capital improvement funds and loan funds have been provided by legislative appropriations financed by general obligation bonds.

Table 1

Distribution and use of Hawaiian Home Lands
(In acres; data as of June 30, 1987)

	ISLANDS					Total
	Hawaii	Kauai	Maui	Molokai	Oahu	Acreage
USES						
Homestead	20,943	831	541	9,477	921	32,713
General Lease	50,281	16,373	20,676	723	1,814	89,867
License	91	-0-	7	587	102	787
Others	36,568	1,365	7,771	14,579	3,763	64,046
TOTALS	107,883	18,569	28,995	25,366	6,600	187,413

Table 2

Homestead Leases, by Islands and by Types
(Data as of June 30, 1987)

TYPE OF LEASES	Hawaii	Kauai	Maui	Molokai	Oahu	Total
Residential	1,024	406	492	320	2,366	4,608
Agricultural	467	45	68	453	66	1,067
Pastoral	67	2	____	27	____	96
TOTAL	1,558	453	560	800	2,432	5,803

EXHIBIT "B"

Indicators of Socio-Economic Status, Total and Hawaiian Populations, State of Hawaii: 1975

Indicators	Units	Total Population	Hawaiian Population
Population	#	850,000	145,000
	%	100.0	17.0
Median Age	#	26.3	18.7
Median Personal Income	$	7,388	6,949
Poverty Status	%	11.3	16.2
Education			
Less than High School	%	49.2	63.3
High School Diploma	%	25.2	25.5
Post High School	%	25.6	11.2
Unemployed	%	4.3	6.7
Average Household Size	#	3.48	4.15
Family Size _	%	21.7	33.1

Alu Like, Inc., Native Hawaiian Profile, State of Hawaii, 1975

EXHIBIT "C"

Hawaii: 1982 Survey of Minority-Owned Business Enterprises
U.S. Department of Commerce

	ALL FIRMS		FIRMS WITH PAID EMPLOYEES			
	no. of firms	sales/rcpts($1000)	no. of firms	employees	an. payroll(000)	sales/rcpts($1000)
Hawaii	29,040	2,419,436	3,061	25,855	318,309	2,077,505
Hawaiian	2,077	44,113	167	553	4,084	23,337
Japanese	17,327	1,104,690	1,852	11,833	127,025	904,563
Chinese	4,369	538,131	556	5,785	68,255	477,987
Filipino	3,341	50,446	157	375	3,000	20,781
Korean	1,240	59,291	185	734	5,798	41,363
Other	686	622,765	144	6,575	110,147	609,474
% of Total						
Hawaiians	7.15%	1.82%	5.46%	2.14%	1.28%	1.12%
Japanese	59.67%	45.66%	60.50%	45.77%	39.91%	43.54%
Chinese	15.04%	22.24%	18.16%	22.37%	21.44%	23.01%
Filipino	11.50%	2.09%	5.13%	1.45%	0.94%	1.00%
Korean	4.27%	2.45%	6.04%	2.84%	1.82%	1.99%
Other	2.36%	25.74%	4.70%	25.43%	34.60%	29.34%

	ave. sales	ave.#of employees	ave. payroll	ave. pay/empl.	ave.sales/recpts	% firms w/employees
Hawaiians	21,239	3	24,455	7,385	139,743	8.04%
Japanese	63,755	6	68,588	10,735	488,425	10.69%
Chinese	123,170	10	122,761	11,799	859,689	12.73%
Filipino	15,099	2	19,108	8,000	132,363	4.70%
Korean	47,815	4	31,341	7,899	223,584	14.92%
Other	907,821	46	764,910	16,752	4,232,458	20.99%

*Other: American Indian, Asian Indian, Vietnamese, Other Asian, Other Pacific Islander, Other Minorities
Does not include blacks and caucasian groups
Note: Specific Hawaiian classification by industry not available

TESTIMONY

BARRIERS TO NATIVE HAWAIIAN PARTICIPATION

IN GOVERNMENT PROCUREMENT CONTRACTING

PRESENTED TO THE

SENATE COMMITTEE ON INDIAN AFFAIRS

SENATOR DANIEL K. INOUYE, CHAIRMAN

FOR AN OVERSIGHT HEARING

ON

BARRIERS OF INDIAN PARTICIPATION

IN GOVERNMENT PROCUREMENT CONTRACTING

BY

MYRON B. THOMPSON, PRESIDENT &

CHIEF EXECUTIVE OFFICER

ALU LIKE, INC

FEBRUARY 23, 1988

GOOD MORNING, CHAIRMAN INOUYE AND MEMBERS OF THE COMMITTEE ON INDIAN AFFAIRS. I REPRESENT ALU LIKE, INC., AN ORGANIZATION CREATED IN 1974 TO RECEIVE FEDERAL FUNDS FOR NATIVE HAWAIIAN PROGRAMS. OUR BUSINESS - TO PROMOTE NATIVE HAWAIIAN ECONOMIC AND SOCIAL SELF-SUFFICIENCY. WE STRIVE FOR THE TIME WHEN NO SUPPORT PROGRAMS ARE NEEDED - FROM YOU OR ANYONE ELSE.

WE ARE NOT YET THERE. THUS, I SUPPORT THE PROPOSAL TO GIVE PREFERENCE TO NATIVE HAWAIIANS ALONG WITH INDIANS IN RECEIVING SUBCONTRACTS FROM BUSINESSES WHO HAVE PROCUREMENT CONTRACTS WITH THE FEDERAL GOVERNMENT.

FEDERAL PRESENCE IS IMMENSE IN HAWAII - RANKING FIFTH IN THE NATION. $4.6 BILLION WAS EXPENDED IN 1986. GIVING NATIVE HAWAIIANS PREFERENCES WOULD HAVE TREMENDOUS IMPACT ON OUR SELF-SUFFICIENCY EFFORTS.

PLEASE NOTE THAT PREFERENCE TO NATIVE HAWAIIANS AND INDIANS IS IN ACCORDANCE WITH PREVIOUS LEGISLATION WHICH TARGETS NATIVE AMERICAN GROUPS.

YOUR COMMITTEE IS AWARE OF THE SEVERE STATISTICS OF THE STATUS OF NATIVE HAWAIIANS. IN FACT, YOU ARE RESPONSIBLE FOR ENACTING SEVERAL MEASURES ON THEIR BEHALF. WHAT YOU CONSIDER TODAY IS IN THE SAME VEIN AS PREVIOUS ACTIONS.

SPECIFIC STATISTICS RELATED TO HAWAIIAN BUSINESS AND ECONOMIC WELL-BEING ARE TELLING.

. NUMBER ONE, CRITICAL UNDERREPRESENTATION OF NATIVE HAWAIIANS IN BUSINESS EXISTS. HAWAIIANS ARE SOME 20 PERCENT OF THE POPULATION, YET ANALYSES OF 1982 DATA, SHOW THEY OWN ONLY 2.5 PERCENT OF THE BUSINESSES.

. TWO, HAWAIIAN-OWNED FIRMS HAVE AMONG THE LOWEST NUMBER OF EMPLOYEES WITH AN AVERAGE OF ONLY THREE EMPLOYEES PER FIRM.

. THREE, HAWAIIAN-OWNED FIRMS HAVE THE LOWEST AVERAGE PAY PER EMPLOYEE - $7,385 PER ANNUM.

. FINALLY, THE GENERAL REVENUES ARE LOWER THAN THOSE OF OTHER MINORITY-OWNED BUSINESSES.

THESE STATISTICS ARE NOT SURPRISING. THEY CORRELATE WITH THE OTHER DATA ON NATIVE HAWAIIANS I HAVE SHARED BEFORE. OTHERS WILL SPEAK ABOUT INDIAN DATA, WHICH I UNDERSTAND IS SIMILAR.

THUS TARGETING NATIVE HAWAIIANS AND INDIANS IS NEEDED. FURTHERMORE, IT IS LOGICAL. WHY?

OUR RESPECTIVE HISTORIES HAVE STRIKING SIMILARITIES AND HAVE ACCORDED US SPECIAL TREATMENT IN THE PAST.

BEFORE THE INTRUSION OF FOREIGNERS, NATIVE HAWAIIANS AND INDIANS SHARED COMMON CHARACTERISTICS -

ONE - THEY WERE POLITICALLY AUTONOMOUS.

TWO - THEY WERE SELF-SUFFICIENT IN THEIR TRADITIONAL ECONOMIES AND LIFE STYLES - THEY LIVED IN GOOD HEALTH AND ABUNDANCE.

THREE - THEIR AGRICULTURAL SYSTEMS AND RESOURCE MANAGEMENT WERE EXCELLENT. AND

FOUR - NEITHER HAD A PRIVATE PROPERTY SYSTEM, BUT THEY DID CONTROL MOST, IF NOT ALL OF THE LANDS WITHIN THEIR POLITICAL BOUNDARIES - UNTIL, BY FORCE, THEIR NATIONS WERE OVERTHROWN BY THE UNITED STATES.

THE COMING OF FOREIGNERS TO BOTH GROUPS HAD SYNONYMOUS IMPACT. WHEN CAPTAIN JAMES COOK ARRIVED IN THE HAWAIIAN ISLANDS IN 1778, 300,000 TO 400,000 HAWAIIANS WERE THRIVING WELL. BY 1920, LESS THAN 150 YEARS LATER, THERE WERE ONLY 20,000 REMAINING. THEIR LANGUAGE, THEIR CULTURE, THEIR HEALTH - ALL IN JEAPARDY. THE IMPACT OF THIS TREMENDOUS PHYSICAL DECIMATION WAS IMMEASURABLE - JUST AS IT HAS BEEN FOR INDIANS.

THERE IS ALSO SIMILARITY IN THE RELATIONSHIP WE HAVE WITH THE FEDERAL GOVERNMENT. BOTH HAVE A TRUST RELATIONSHIP WITH THE UNITED STATES. IN THE CASE OF THE HAWAIIANS, CONGRESS CONFIRMED THIS RELATIONSHIP AS EARLY AS 1920, WHEN IT CREATED THE HAWAIIAN HOMES COMMISSION, PART OF A "PLAN FOR THE REHABILITATION OF THE HAWAIIAN RACE."

SINCE THEN, YOUR COMMITTEE AND OTHER EQUALLY CONCERNED COMMITTEES HAVE LEGISLATED ON BEHALF OF HAWAIIANS.

MANY PRECEDENTS HAVE BEEN SET - NATIVE HAWAIIANS RECEIVE ASSISTANCE THROUGH THE CARL D. PERKINS VOCATIONAL EDUCATION ACT, THE LIBRARY SERVICES AND CONSTRUCTION ACT, AND THE OLDER AMERICANS ACT, TO NAME A FEW.

PROPOSALS BY YOUR COMMITTEE CAN BE OF CRITICAL IMPORTANCE TO HAWAIIANS. I SUPPORT ANY EFFORTS TO ACT ON OUR BEHALF AGAIN. IT ENHANCES HAWAIIANS' DESIRE TO REGAIN THE SELF-SUFFICIENCY THEY ONCE ENJOYED IN THEIR HOMELAND.

THANK YOU VERY MUCH FOR THIS OPPORTUNITY. I AM PLEASED TO ANSWER ANY QUESTIONS.

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